

A Motherhood Issue: Discourses on Mothering Under Duress

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The research and publication of this study were funded by Status of Women Canada's Policy Research Fund. This document expresses the views of the authors and does not necessarily represent the official policy of Status of Women Canada or the Government of Canada.

October 2002

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Status of Women Canada thanks those who contribute to this peer-review process.

National Library of Canada cataloguing in publication data

Main entry under title : A motherhood issue: discourses on mothering under duress [electronic resource]

Issued also in French under title: Une question capitale pour les mères, le discours sur les soins maternels en situation de crise

Includes bibliographical references.

Issued also in print format.

Mode of access: WWW site of Status of Women Canada.

ISBN 0-662-32679-1

Cat. no. SW21-99/2002E-IN

1. Maternal and infant welfare – Government policy – Canada.
 2. Maternal and infant welfare – British Columbia.
 3. Mothers – Drug use – British Columbia – Case studies.
 4. Mothers – Mental health – British Columbia – Case studies.
 5. Abusive women – British Columbia – Case studies.
 6. Family services – Canada.
- I. Greaves, Lorraine.
II. Canada. Status of Women Canada.

HQ759.M67 2002 362.82'8'0971 C2002-980203-2

Project Manager: Nora Hammell and Julie Cool, Status of Women Canada

Publishing Co-ordinator: Cathy Halessey, Status of Women Canada

Editing and Layout: PMF Editorial Services Inc. / PMF Services de rédaction inc.

Translation: Babel Communications Inc.

Comparative Read: Linguistica

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ABSTRACT

This study investigates how situations of mothering under duress are discussed in Canadian policy documents, media portrayals and women's experiences with an emphasis on the Province of British Columbia. Three cases are examined in detail: mothers who use substances, mothers who have mental health issues and mothers who have experienced violence in domestic settings. Various approaches to these cases are examined using the themes of rights, risk and evidence. This study involved the detailed data analyses of relevant policy documents, a year of newspaper portrayals and interview material with over 50 women.

While mothers in each of these situations are portrayed differently at times, there are similarities. Mothers who use substances are considered responsible for their situation, while mothers who have mental health issues are felt to have no control over theirs. In between, the mothers experiencing violence were considered to be partly responsible. An intricate web of portrayals and discussions became evident, with media reports, legal inquiries and critical cases affecting the nature and evolution of mothering policy.

The "best interests of the child" concept embedded in many of the legal, policy and media responses renders mothers' rights as secondary. The risk assessment techniques used in determining policy are negative in orientation and often prevent positive, supportive actions but are assumed to be scientific. Finally, the evidence that is brought to bear on decisions regarding mothering under duress is partial and usually overlooks evidence from mothers or any long-term assessment of the effects of mothering policies.

A mothering framework is recommended to guide the development of policies that recognize, respect and restore the mother-child unit. This framework included values, a policy filter, and strategies for action and inclusion. It is geared toward building capacity among women, policy makers and the media for critical analysis of mothering policies, particularly as they are applied to mothering under duress. Its adoption is recommended to enhance women's equality in discussions about mothering and to enhance the quality of life for all Canadians.

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ACRONYMS AND ABBREVIATIONS

BCMAG	British Columbia, Ministry of Attorney General
BCMCF	British Columbia, Ministry for Children and Families
BCMh	British Columbia, Ministry of Health
CFCSA	<i>Child, Family and Community Service Act</i>
CMHA	Canadian Mental Health Association
FAE	Fetal alcohol effects
FAS	Fetal alcohol syndrome
FMEP	Family Maintenance Enforcement Program
NAPW	National Advocates for Pregnant Women
OCD	Obsessive-compulsive disorder
PKO	Phenylketonuria
SCODA	Standing Conference on Drug Abuse

PREFACE

Good public policy depends on good policy research. In recognition of this, Status of Women Canada instituted the Policy Research Fund in 1996. It supports independent policy research on issues linked to the public policy agenda and in need of gender-based analysis. Our objective is to enhance public debate on gender equality issues to enable individuals, organizations, policy makers and policy analysts to participate more effectively in the development of policy.

The focus of the research may be on long-term, emerging policy issues or short-term, urgent policy issues that require an analysis of their gender implications. Funding is awarded through an open, competitive call for proposals. A non-governmental, external committee plays a key role in identifying policy research priorities, selecting research proposals for funding and evaluating the final reports.

This policy research paper was proposed and developed under a call for proposals in September 1999: *Where have all the women gone? Changing shifts in policy discourses*. Researchers were asked to examine shifts in public policy discourse to anticipate effects on gender issues and develop strategies to ensure the discourses recognize and serve women's interests.

The research projects funded by Status of Women Canada on this theme examine issues such as discourses around mothering under duress, child poverty, gender and academic success, as well as gender equality promotion strategies for regional planning.

A complete list of the research projects funded under this call for proposals is included at the end of this report.

We thank all the researchers for their contribution to the public policy debate.

EXECUTIVE SUMMARY

This report examines current approaches to mothering in Canada articulated through key policy documents, media portrayals and women's experiences. The origins of this project are rooted in a widespread and growing concern about the reduced importance of mothers — women — in policy discussions and decision making about mothers. A focus on mothers and mothering, especially in crisis situations, can often be erased or subsumed by an intense public focus on the rights and safety of children.

This report details an extensive investigation into the contemporary public and policy discourses surrounding mothering under duress in Canada. The study focusses on three examples: women who use substances while pregnant or as mothers, mothers who experience mental health issues and mothers who are subjected to woman abuse by domestic partners.

These examples are analysed according to three themes. First, we examine the issue of rights, particularly the construction of “conflicting” rights between mothers (women) and children. Second, we analyse the issue of risk, to understand how decisions about risk assessment are made and how this is often approached with assumptions of scientific precision. Finally, we analyse the issues of evidence, and the sources and types of evidence that appear to hold authority, and those that do not.

Policy, media and women's experiences, as related to these three examples of mothering under duress, were investigated to describe and analyse the nature of these discourses in contemporary Canada. Multiple methodologies, including document analysis, focus groups and interviews, were used to elicit and analyse these different kinds of data related to mothering under duress.

The data from each of these sources create an intricate web of mutual interaction. The ways of writing, talking or thinking about these cases were different yet related. Mothers who used substances were often negatively and punitively portrayed in the media and dealt with in a punitive fashion in policy and related approaches. The mothers in this situation absorbed these messages and often delayed accessing treatment because of a general apprehension surrounding the responses to them and their children.

Mothers who experienced mental health problems were often ignored, stemming from the presumption that mental illness and mothering were incompatible, or that women with a mental illness were unlikely to be mothers. These themes emerged in the discourses in medicine, policy and the media, and were reinforced in the women's experiences.

Mothers who experience violence against them in the domestic sphere were routinely blamed, penalized or legally harassed. These themes emerged in the media, legal and policy discourses. The violence issues these women faced were often ignored, neutralized or underplayed in these discourses and, therefore, issues of safety for them and their children were rendered secondary.

In general, in all three cases of mothering under duress, mothers experienced being treated as “cases” rather than individuals in their relationship with their children. This brought them into contact with both policies and workers who had the “best interests of the child” in mind, not the best interests of the mother–child relationship. This approach was also reflected in the media, even though media-produced perceptions of both the women’s and the system’s responsibility in each of the three cases differed. Women using substances were constructed as deliberately creating their situation and the system was defined as not at fault. Women experiencing abuse were presented as somewhat in control of that situation and the system as failing in a limited way. Finally, women with a mental illness were considered to be in a situation out of their control where the system was failing women.

The mothering framework recommended in this report has three parts. First a depiction of mother-centred policy values outlines the key elements that matter in developing policy that supports the mother–child unit. Second, a policy filter poses some essential questions for analysing policy and legislation concerning mothers. Third, some strategies for action and inclusion are suggested that will build capacity in all Canadians for understanding and analysing mothering policy and its effects. This framework is intended to guide and enhance the analysis of mothering-related policies by increasing capacity and “policy literacy” in women, advocates, policy makers and front-line workers.

Mothers and children are usually dealt with separately in designing policy, carrying out programs, protocol, treatments and legal proceedings when mothering under duress. This is a major issue and a damaging oversight according to the women and mothers involved in this study. This investigation concluded that the mother–child unit deserves recognition, reinforcement and a set of rights that is more than the sum of the rights of the fetus/child and the woman/mother. Key to this is including mothers and women in the policy-making process at every stage and collecting evidence about the long-term effects of current mothering policies. Starting from the premise of valuing and protecting the mother–child unit could ensure women’s equality in the mothering discourse and enhance the quality of life for all Canadians.

PROLOGUE

In early 2001, a 12-month-old Edmonton baby clad only in a diaper and T-shirt wandered outside on a freezing winter night where the temperature was -23°C. She was found frozen to the bone two hours later and was rushed to hospital. She not only survived, she made a rapid recovery, much to the amazement of medical and lay observers. The baby, Erika Nordby, became a legend.

The response to the case of Erika was dramatic. The entire country focussed on her rescue and recovery. When it appeared she would fully recover, she became known as the “miracle baby” and her story was sent across the world. Almost immediately, however, a parallel story began to unfold. This one was about Erika’s mother, Leyla, and, specifically, about her mothering. When it became known that Erika let herself out of the house in the middle of the night, all eyes focussed on her mother. In fact, while Erika was rushed to hospital, her mother, a single Aboriginal woman, was rushed to the police station. She was not reunited with her daughter until five hours later.

Her mothering was immediately suspect because she was single, Aboriginal and temporarily homeless. She and Erika were staying at a friend’s house on the night in question. She was only 26 but was pregnant with her sixth child. She had lost children to death, an ex-partner and the child welfare authorities. Each of her children had had a different father. At an earlier point in her life, she had been addicted to drugs. With the addition of the fact that the door of the friend’s house was in poor repair, allowing Erika to escape unnoticed, the picture was complete. The police were interested in investigating the possibility of child neglect.

A mixture of events and factors emerged to fill out a picture of a mother who was, in general terms, less than perfect. Eventually, Leyla Nordby appeared on national television in an in-depth interview where she was asked about her situation and provoked to defend herself. The assumptions about her and her child were clearly different than those that would be attributed to a White middle-class mother in a similar situation who was not suffering the effects of poverty, child abuse or addiction.

Eventually, the case was profiled in Saturday Night (Moher 2001) in an article suggesting the real “miracle” was yet to occur: for Erika to survive her social circumstances and grow up healthy. In other words, the real story is about her mother and her mother’s mothering. Leyla’s demeanour (“a mixture of child and adult”), her views on her numerous pregnancies (“I was on birth control...I got pregnant. Nothing’s a hundred per cent for sure, you know?” p. 45) and her fatalism (“There’s things in my life...things just happened.” p. 45) all came under scrutiny in the media. Despite the fact that Leyla had gone into rehabilitation and kicked her drug habit five years previously in order to retain her children and had remained clean ever since, her honesty is exploited in the media: “I can’t lie and say I’ll never go back to drugs. But I know I don’t choose it” (p. 45). Ultimately, the article questioned (p. 44): “What will become of Baby Erika and her mother in the world to which they were returned when they were driven away from the University of Alberta Hospital in an ageing Ford van with a large crack through the windshield?”

1. FOCUSING ON MOTHERING UNDER DURESS

The case of Leyla Nordby and her daughter Erika epitomizes the discourse about mothers who are mothering under duress. Little attention is paid to strengthening the position of women as mothers; lots of attention is paid to deficits and doubts, especially from the child's point of view. As a result, the mother-child relationship is potentially at risk. What can be done to support mothers under duress? How can they best be assisted in continuing to mother? How can the mother-child relationship be made to flourish? These are the questions that underpin this report and motivated the following investigation into the discourses surrounding various forms of mothering under duress. These questions are of deep concern to mothers, to women and to Canadian society, but they are not always the focus of policy, media and public discourses on mothering.

This report examines current approaches to mothering in Canada as articulated through key policy documents, media portrayals and women's experiences. The origins of this project are rooted in a widespread and growing concern about the reduced importance of mothers — women — in policy discussions and decision making about mothers. A focus on mothers, especially in crisis situations, is often erased or subsumed by an intense public focus on the rights and safety of children.

We have, therefore, focussed our investigation on three situations of mothering that often manifest as crises in the public domain. First, we consider women who are using substances while pregnant or as mothers. Second, we consider the case of women who are mothers and experience intimate partner violence in the family setting. Third, we consider the situation of women with mental health issues who are also pregnant or mothers. While mothers may experience one or more of these situations at the same time, we consider them through three separate lenses to clarify and distinguish the issues connected to each situation. Notwithstanding this, when mothers experience more than one of these issues at the same time, the complexity and stigma connected to their situations increases.

In all three of these diverse situations, mothers are under duress, whether through the effects of their circumstances, their relationships, or their social and biological conditions. In focussing on mothering in crisis situations, we are able to draw out the strongest elements of the prevailing attitudes and values embedded in the discourses surrounding mothering.

We have focussed our investigation on the Province of British Columbia, but many of the issues raised and the documents considered reflect the interplay of federal and provincial interests. Indeed, many levels of jurisdiction affect mothering, from the level of institutional and municipal supports to national and international policy. Much of our policy analysis was done in the context of British Columbia, and our focus groups and court observations took place in British Columbia. Ultimately, British Columbia serves as a case example of how the situations of mothers under duress are played out in how we talk, think and write about mothering in Canada.

In addition to generating this portrait of discourses surrounding mothering under duress, we have developed a mothering framework to assist in developing capacity for analysis of mothering-related policy. This framework, presented in Chapter 5, includes an outline of a set of values required to underpin an equitable and effective mothering policy, some methods of critically analysing policy and its effects, and some strategies for initiatives that could improve the state of mothering in Canada.

Structural conditions affecting mothering create the backdrop for all mothers' lives. According to Campbell (1999: 918) "public policy configures social worlds." Child care and other forms of caregiving remain the social and practical responsibility of women, despite shifts in attitude toward more sharing between mothers and fathers in recent years. Most lone-parent families are headed by women and disproportionately poor, and there remains no universal accessible child-care system in Canada despite years of effort toward that goal. As a result, mothering under duress is both a psychological state as well as a social, economic and legal reality. As Campbell said (1999: 918), often what is "at stake is women's responsibility for children despite lack of public policy supports to uphold women's autonomy."

Mothering has been both revered and denigrated over the centuries. While mothers have, at times, been romanticized and idealized, there have also been patterns of control over mothers exercised by patriarchal systems of law and custom. The prism of discourses surrounding motherhood incorporates a range of approaches, all subject to shifts in social and cultural attitudes, and reflective of political and historical events. For example, motherhood was idealized in Canada in the drive to replant women in the domestic sphere after a wartime and postwar period of increased involvement in the labour force. Mothers are routinely subjected to high expectations and idealistic standards of behaviour and nurturance in relation to their children. Indeed, the limits and "disciplinary machinations" (Campbell 1999: 921) the state places on pregnant women and mothers are a particularly pointed manifestation of this pressure. At the same time, mothers have rarely had clear legal rights to their children as manifested in presumptions about custody, care, control or naming of children.

Phylis Chesler (1991: 417) commented on this in the context of her study of custody decisions, which often serve as a key indicator of the status of women and mothers. She maintained that the erosion of mother's (fragile) custody rights in recent years has occurred at the hands of both new age and patriarchal fathers' rights groups, the liberal media and the legal and mental health establishments.

"Mothering" is woman's work; as such it is devalued, exploited and taken for granted. Contrary to myth, biological and adoptive mothers are neither protected nor empowered by patriarchal law or custom. The maternal presumption was never a woman's legal right, only her obligation. At its height, this presumption never empowered a "good enough" mother to withstand a custodial challenge. Individual fathers and the state easily won custody even of breast-feeding infants on the grounds of female poverty or alleged immorality or mental illness.

Child apprehension practices and custody decisions are often the manifestations of policy, media and public discourses on mothering and serve as a lightning rod for debate and conflict. In some circumstances, the woman's "fitness to mother" becomes the question, and prevailing webs of discourse come to bear on mothers' abilities to care adequately for their children, especially when they are under duress. As a result, much of our data centres on these aspects of the struggles and decisions surrounding mothers under duress.

In recent years, child-centred public policy discourse has emerged as a dominant frame within health and social policy, potentially obscuring the place of women and mothers. Indeed, a strong fetus-centred discourse has also emerged in the legal decisions and medical interventions that automatically affect women and their control over their bodies. We suggest three interconnected concepts — rights, risk and evidence — can be used to analyse these trends. Often, the rights of women are constructed as in conflict with the rights of children or the fetus. In assessing risk, specific approaches to data collection are taken to underpin and form policy and protocol decisions concerning mothers, children and fetuses. Finally, when looking for evidence to support decisions, scientific or medical authorities are often asked to provide expert knowledge on cases or policies. Evidence is a key ingredient used in the development of policy discourses. All three of these concepts (rights, risk and evidence) are directly or indirectly used in developing and perpetuating discourses on mothering and on mothering under duress.

These three concepts underpin our analysis of the current discourses that affect mothers in Canada, particularly mothers under duress. We examine these three concepts in three situations: substance use, woman abuse and mental health issues. To gain a complete picture of how the discourses around these situations develop and gain a foothold in the public mind, we examine key policy documents, media articles and data from women concerned with these issues. We pay particular attention to how the discourses in various sectors, policy, media, law and the public interact, intersect and interplay to form a web of mutually linked discourses on mothering under duress.

These three situations are increasingly framed as concerns of child welfare. While frequently an important concern in these situations, the focus on child welfare overlooks and obscures the issues of women's welfare that precede or parallel the events. A tendency to overlook the factors affecting women or mothers in these situations may allow policy and protocol to develop that do not respect or enhance women's rights and, specifically, the rights of mothers. In addition, it obscures the critical interconnectedness of mothers and their children, by ignoring the importance of the relationship between the mother and child and the necessity to preserve, support and maintain it. Consequently, many aspects of the solutions or treatment of problems, such as substance use, mental illness or violence against women, fall short and deprive both mothers and children of the support required to work through periods of duress.

This report documents an extensive analysis of policy documents, news media and the experiences of women in these situations. The media material is drawn from across Canada. While some of the examples and policy approaches focus on experiences in British Columbia, they too are applicable across Canada. The product of this analysis is the mothering framework detailed in Chapter 5, which suggests an approach to policy and protocol that would respect and

value mothers, enhance and strengthen the mother–child relationship and defuse the “conflict-based” approaches to treating these difficult issues. Our premise is that a strong mother will produce and raise a strong child and, in cases where mothers need more support to be strong, it is in the best interests of our society to provide it.

The discourse on mothers and mothering has undergone a seismic shift in Canada in the past 15 to 20 years. Mothers were once viewed as special and crucial to their children, and the mother–child relationship was to be preserved, not diminished. While this did not necessarily match the social reality of women, it was the prevailing legal, policy and public view. It was captured in public opinion and many everyday practices. The biological or caregiving role of mothers was seen as worthy of being revered and maintained.

In the intervening years, the word “mothering” has been reduced and subsumed into “parenting,” a gender-neutral (and potentially diminishing) concept that explicitly allows others to be considered “as good as,” or equivalent to, mothers. This slide into gender neutrality has benefited fathers’ rights activists whose agenda it fulfils, as well as the state, which is on firmer ground in conceptualizing and naming alternate caregivers through legal decisions and policy shifts. This shift toward a gender-neutral approach in family law has taken place in an unequal world, where women still experience substantive structural inequalities. A general backlash against women’s rights and feminism has also contributed to the contesting of mothers’ rights.

While maintaining the notion and specialness of mothering does not diminish the value of fathering, introducing parenting diminishes both. It sets the stage for not considering the health and strength of mothers and not focussing on strengthening the mother–child relationship as a primary goal in intervention. It also allows for the introduction of alternate caregivers, often identified or paid by the state, who become seen as, if not a completely adequate replacement, then at least as important as the mother. These replacement custodians are critical to the operation of a child welfare system, but not at the expense of the mother and the mother–child relationship.

Mothers who are experiencing serious or critical situations in the context of their mothering responsibilities are often further stressed by the dominant policy, media and public views on mothers and their worth. One concrete result is that mothers often do not access or receive the care they need to maintain strong mother–child relationships. In the end, both mothers and children suffer.

Much of this shift has been accomplished in the “best interests of the child.” This phrase has supported the logic behind much of the family law reform in Canada and continues to be the pivotal legal concept in the discourses surrounding mothering under duress, despite the term being critiqued for its vagueness and indeterminate nature (Crossman and Mykitiuk 1998: 31).

This concept could be revisited using a primary filter that takes into account the interconnectedness of the needs of mother and child. In addition, the “best interests of the child” need to be assessed from a long-term, non-rights-based perspective to identify the

losses that children may experience in situations where their mothers are under duress and decisions are made that will affect them both for life.

The Three Cases

This study focusses on three instances when mothering is under duress. These three cases represent three key conditions — substance use, mental health and violence — that affect women and mothers in contemporary Canada. These three conditions often give rise to public debate and policy, and legal intervention. It is unusual that women or mothers are affected by any of these issues in isolation. Often, the reality is that mothers experiencing duress may have been affected by one or more of these issues at some point in their lives, and their overlapping, interactive and sometimes cumulative effects are often present.

Substance Use by Pregnant Women and Mothers

Mothers who use substances, particularly when pregnant, have come under intense scrutiny in Canada in recent years. This issue was examined by the Supreme Court of Canada in the case of Ms. G, a woman from Winnipeg who was using solvents during pregnancy. Ms. G was declared mentally incompetent to make her own decisions, and was placed under the care of the Winnipeg Child and Family Services, based on the argument that her actions violated the “duty of care” owed to her fetus. At the Manitoba Court of Appeal and, later, on appeal at the Supreme Court of Canada this decision was overturned.

The public discourse on women as mothers as users of alcohol, drugs and tobacco has been fundamentally judgmental, blaming and unsympathetic. As in the Ms. G case, it has usually presented women as mothers in an adversarial position to the rights of their children and rarely makes mention of any role men as fathers or partners, supportive or otherwise, may have in the situation.

Over the last decade, there have been several high profile child welfare cases and numerous examples of critical coverage of women as mothers who use various substances. A key theme in these accounts is the guilt, stigma and shame that women feel about their (licit or illicit) substance use and their mothering. As a result, women often do not seek the care they need and deserve, with negative implications for their health and the health of their children (Poole and Isaac 2001).

The impact of this approach in the policy and legislative arenas is significant and troubling to advocates of women’s empowerment and equality. As Campbell (1999: 918) said, “beneath the legitimate and compelling concern for ‘drug-addicted babies’ lies a basic animosity to women’s self-governance.” Many Canadians were affected by the Ms. G case, as it raised key questions about women’s autonomy and bodily integrity, mandatory treatment and the comparative “rights” of mothers, women and the fetus. However, key elements were missing from the public discourse in this case, such as a full discussion of the barriers to care for substance-using women, the lack of visible, comprehensive and welcoming treatment services, and the relationship of the substance use to the conditions in women’s lives.

These gaps preclude attention to key issues, such as the chronic lack of funding of an array of alcohol and drug services, the lack of services where women can access care with their children and the lack of detoxification services or tobacco cessation programs designed for women. There are key issues regarding custody and care-related policy and practices that do not support women in retrieving their children after placing them in care while they seek treatment. There are also issues around risk assessment policies that focus largely on use of substances as an indication of capacity to mother that are defeating for women, and discourage or prevent the maintenance of strong mother–child relationships. Finally, when substance use is introduced into family law disputes, as tobacco use has been in recent years, the issues of context, use and treatment options are often overwhelmed by discussions of rights.

Mothering by Women Who Are Abused by Their Partners

Public recognition of the scope and impact of violence against women is a recent development in Canada, spanning only the last 25 years. Ironically, as quickly as social attention turned to examining violence against women, that attention shifted to the children of women who are abused. With respect to the issue of women who experience violence and are mothers, a web of discourses operates, based on the competing rights of fathers and mothers, women’s capacity to protect their children and varying understandings of who is the victim of abuse. In recent years, a child-centred discourse has developed that focusses attention on children who witness violence and has further shifted the focus away from the effects of the violence on women.

In addition, women are increasingly held responsible by child protection authorities for putting their children at risk by remaining in abusive relationships where their children may witness violence. Paradoxically, even in these circumstances, the courts continue to support men’s continued access to children following separation. Taken together, these discourses have given rise to policies and practices that are presumed to benefit children but often ignore women’s safety and equality. For example, in British Columbia, this trend is reflected in the *Child, Family and Community Service Act* and its related policies and attendant practices. Within this Act, the best interests of the child are addressed and conditions for apprehension of children are laid out without attention to the mother’s safety, and without taking the impact of woman abuse (on the woman or the child) into account. Because women remain the primary caregivers of children, and because society is unable to protect women from partner abuse, women are, in effect, mandated to protect their children from their abuser and from “the system.” Women must establish themselves as “good mothers” in the eyes of social workers, the courts, domestic violence programs and parenting classes to demonstrate that they can protect their children.

The rise of a “fathers’ rights” discourse has further eclipsed concern for women’s safety. The combined effects of these intersecting discourses were evident during the rounds of consultations on child custody and access in 1998. During the processes used by the Joint Parliamentary Committee on Custody and Access, fathers’ rights groups often dominated the proceedings, in direct opposition to those concerned with the welfare of women. Often, they succeeded in using the rhetoric of children’s interests to separate the welfare of children from the welfare of their mothers.

Mothering by Women with a Mental Illness

Prejudicial and inaccurate beliefs about mental illness are still widely circulated that create a social climate in which women with mental illnesses are viewed as dangerous and incapable of caring for children. Increasingly, some in the mental health field are challenging these stereotypes and pointing out that many women with mental illnesses are capable of parenting provided they have adequate supports in place. This awareness, however, is not widely shared by all mental health professionals and is virtually ignored by those working in the context of child protection. The result is that many women who have been diagnosed with a serious mental illness lose custody of their children.

Several policy arenas converge in determining system responses to women with mental illnesses who are mothers. In British Columbia, for example, interventions are governed by the British Columbia *Child, Families and Community Service Act* (1996), the *Risk Assessment Model for Child Protection* (BCMCF 1996) and the *Mental Health Act* (1996 revised, 1998). The British Columbia 1998 *Mental Health Plan* and more recent documents accompanying the plan provide a policy framework and the tools necessary to implement the plan. Numerous protocols governing the practices of social workers, psychiatrists, psychologists and other professionals flow from these policies and the legislation.

We know that women are more likely than men to seek psychiatric help and that they come under particular scrutiny by the mental health and child welfare systems if they are mothers or expectant mothers (Mosoff 1997; Mowbray et al. 1995). Many women are afraid to ask these systems for support and assistance for fear that their parenting will be closely scrutinized and they will lose their children. Women who recognize their inability to care for their children often find that separation planning is traumatic and ill conceived, with little attention to the grief and loss women experience in losing custody of their children.

Mental health reforms involve an increased awareness of how the stigma surrounding mental illness affects people's abilities to recover and re-integrate into their communities. Reforms, however, are also closely connected to cost cutting and the implementation of efficiency models, which save time and money. This raises the concern that punitive and coercive policy and legislation will be used in lieu of better and more comprehensive service delivery for both mothers and their children.

Taken together, these three cases of mothering under duress provide us with the basis for a rigorous analysis of the interlocking web of discourses associated with mothering under duress that prevail in contemporary Canada.

Theoretical Lenses

Gender and Diversity

We examined these three cases by analysing three main sets of data: policy documents, media analysis and women's experiences. A general overlay to the material was the application of both gender and diversity lenses, revealing aspects of gender, race and class that were important to the interpretation and analyses of data. These were key tools in our search for patterns or trends and in bringing organization and meaning to the data. The three axes plus

the lenses provide a consistent framework for understanding most elements of mothering under duress, and inform the basis of our suggested framework in Chapter 5.

These lenses drew our attention to general inequities and discriminatory practices that invade social life and the perceptions and practices surrounding mothering under duress. The application of a gender lens calls attention to the interrelated treatments of women, femaleness and mothering in all three data sources — media, policy and experiences of women. Gender analysis consciously allows and encourages reference to the assumptions and interpretations of being female and being male that emerge in the data. This allowed us to see patterns of sexism, androcentricity and exclusion that affect the social, policy and legal responses to mothering under duress.

For example, we paid close attention to the language in the laws, acts and policy documents that came under study. Similarly, we noted the wording and cast of the media reports. Finally, we noted the aspects of gendered experience that emerged in the comments of the women interviewed surrounding the issues of mothering under duress.

We also assessed the three types of data for evidence of racism, ethnocentrism, classism and heterosexism. In the various discourses, we searched for evidence of stereotyping or innuendo with respect to race, ethnicity and socio-economic status. For example, we employed these lenses in our analysis of the broad policy documents, laws and legal inquiries that came under our study. We also assessed the news media coverage of cases in the one-year period for references to race, ethnicity and class, to determine when and how such references were either made or omitted, in the act of providing news coverage and analysis. Finally, within the analysis of the women's experiences, we assessed the potential impact of class, race and ethnicity on the systems' responses to the women.

Rights, Risk and Evidence

We also assessed all the material using the interconnected concepts of rights, risk and evidence. The notion of rights has a rich history and has evolved over time (Dyck 1994; Ignatieff 2000). Underlying current notions of rights is a strong sense of individualism and entitlement. This sense of rights is present in the *Canadian Charter of Rights and Freedoms*. The problem with this approach to rights is that it tends to pit one individual's rights against another's or the rights of the individual against the rights of society. Accordingly, rights are something to be contested. While social groups can also use the charter to advance their collective rights, the legal mechanism is individualistic and focussed on case examples.

Mothering under duress appears to pit the rights of mothers against the rights of children, and sometimes fathers. Often, there is pressure to separate these rights in making decisions, rendering judgments or reporting on cases. This individualization and compartmentalization of rights is particularly inadequate for understanding the mother-child relationship, or for assessing the relationship as an entity in itself. Nonetheless, "rights" are often used and seen as divisive and in conflict.

In the last decade, interest in children's rights has heightened. There are numerous documents outlining the rights of children (e.g., U.N. Convention on the Rights of the Child), and the

rhetoric of children's rights is seemingly impenetrable. Who would argue that a child does not have rights? The problem with the child's rights discourse is that it fragments relationships by discounting the notion that children and their mothers are deeply interconnected.

The discourse of risk was also analysed. Douglas (1990) noted that the connotation of the term "risk" has changed over time. While originally understood as involving both gains and losses, our contemporary understanding of risk is confined to negative costs (Lupton 1995). Society considers certain risks as more tolerable than others. Further, risk is posed as calculable, precise and controllable. Members of the lay public and policy makers lacking an understanding of the nuances of risk models tend to categorize risks as high or low, tolerable or intolerable.

The discourse of risk has led us to believe that unfortunate events are both predictable and avoidable. A central tenet of risk discourse is that we can control risks. What we once viewed as danger we now view as risk. It is not surprising then that the discourse of risk has been widely applied to children. The current understanding of risk sets the stage for an acceptance of a "science" associated with risk that can allow us precision in estimating and predicting aspects of human behaviour.

Current notions of evidence also play a key part in determining the discourse surrounding mothering under duress. Historically, only certain types and sources of evidence have been deemed important, and other forms and sources of evidence have either been seen as secondary or irrelevant. Despite post-modern challenges, the dominance of positivist science persists in academic discourses, policy discourses and even lay understandings of the world. Evidence is central to science, research and scholarship, but as Chandler et al. (1991) noted, the topic of evidence receives extraordinarily little attention.

Evidence is what "stands in for" or reflects reality and "truth." However, the nature of reality, what "counts" as evidence, validity and the nature of truth are all contested ideas (see, for example, Lather 1994). "The ways in which rules of evidence are invoked are themselves products of historical developments [that] undergo redifferentiation and reformulation" (Chandler et al. 1991: 740).

The voices of "others" have been central to challenges regarding the nature of evidence in the production of knowledge. Gender studies, women's studies, critical race theory and critical studies have sought to shift understanding of objectivity and subjectivity, calling into question whose "truth" counts, and how power shapes what is known and what can be known. Despite the ancient tradition of using ethnography, narratives and stories as data, qualitative inquiry has been questioned in recent decades as proper evidence. Yet, "experience" has been increasingly offered as "evidence" in contemporary times.

Particularly, the experiences of those whose lives are omitted or overlooked in dominant accounts have been fundamental to the critiques of knowledge and truth. The experiences of women, of people subjected on the basis of race, class, culture and so on, are offered as evidence in alternative interpretations of truth. As Scott (1991: 777) noted, "what could be truer, after all, than a subject's own account of what he or she has lived through?" However,

as Scott pointed out, presenting experience as incontestable evidence weakens the thrust of critical scholarship as it lends authority to individual interpretations and naturalizes difference.

Thus, in examining the discourses surrounding mothering under duress we attended to the notions of rights, risk and the nature of evidence, and how these concepts are employed to support particular interpretations of reality or policy decisions. Given the close relationship between various categories of representation, such as class, race and gender, and the privileging of particular interpretations, we also addressed these categories. As we knew that race and class were particularly salient in dominant understandings of substance use, violence against women and mental illness, we were specifically concerned with how these categories of representation operated in policy discourses. Finally, we were particularly interested in the ways women's experiences were solicited and treated. Throughout, we asked how evidence was being employed and how the concepts of risks and rights affected the discourses on mothering under duress.

Methodology

We examined the discourse in the context of three situations of mothering under duress in detail, analysing three main sets of data. At the macro level, key policy documents, (federal and provincial policies operating in British Columbia), in each of the three cases, (substance use, violence and mental illness), were examined to determine how the concepts of "risk," "rights" and "evidence" were used to determine a policy position or protocol. In addition, the legislative framework underpinning policy with respect to each issue and how that legislation is interpreted in policies, procedures and practice were assessed. In each case, we also investigated other sources of policy discourse, such as landmark legal cases or inquiries, medical research and published literature.

Second, extensive media analyses of a period covering one year (1999-2000) were undertaken of three newspapers (*The Globe and Mail*, *National Post* and *The Vancouver Sun*). Again, these documents were analysed according to the three axes of risk, rights and evidence. These media analyses covered all three of the situations under study as well as general coverage of mothers, mothering and related issues.

Third, in each case, an appropriate sample of women and key informants was assembled and interviewed to provide their observations or feedback on the issues at hand. Some of these informants were responsible for carrying out policies, or were situated on the front lines where policy is enacted. Others were the people directly affected by the policies, including women who had experienced mothering under duress in any of the categories as well as individuals closely connected to them or to the issues. As mothers are variously located as policy makers, advocates, service providers and individuals, we sought ways to include and document these potentially different perspectives.

We conducted both individual interviews and focus groups related to all three cases of mothering under duress. We also interviewed some key informants in policy and practice who had an overall perspective on mothering under duress or child welfare. In total, we

directly accessed the experiences and opinions of 52 individuals. In addition, in the case of violence, over 60 hours of court observation were completed. Out of 63 cases observed, 13 were identified as concerning violence and became part of the data set. We recorded all the interviews and focus groups, and transcribed and made summary notes of this material. Court observers made detailed notes on the court cases and reconstructed the court discourse. As a team, we compared and contrasted all the materials evolving from the three cases. We analysed the interviews plus the policy documents and media analyses through the development of themes.

Our results are documented and analysed in the following three chapters. Chapter 2 documents the results of the media analysis, followed by the policy analysis in Chapter 3. Chapter 4 analyses the women's experiences with policy and practice related to mothering under duress and the views of the women directly affected by the issues. Taken together, these three components offer the basis for the mothering framework presented in Chapter 5, which is intended to serve as a guide to others in assessing policy on mothering, particularly mothering under duress. This framework identifies essential values to support mothering policy, some methods for critically analysing the policies affecting mothering, especially mothering under duress, and some strategies for enhancing the mother-child relationship. Key to this is the inclusion of material from mothers themselves as an essential ingredient in both the process and content of further policy development and assessment.

2. THE MEDIA SET THE CONTEXT

This study of mothering in relation to woman abuse, substance use and mental illness aims to develop an understanding of relevant policy discourses to support the development of woman-positive policy. Popular media reflect, and participate in creating and sustaining, the social context within which policies are developed and enacted. Specifically, popular media reflect and sustain social values that shape policies and their enactment. To describe the social context of policy discourses and their underlying values about mothering, we undertook a study of newspaper coverage as one example of popular media. Media commentary is important to study because, “to the extent that the political system responds to public interests, it is responding to interests shaped in a significant way by the...news industry” (Golden 2000: 476). Thus, to influence the way mothering is depicted and acted upon in policy making, it is critical to understand current media portrayals and how they are accomplished.

We selected all articles concerning mothering in relation to woman abuse, substance use and mental illness from three sources (two major national newspapers and one local newspaper) over a one-year period. After an initial screening to confirm the relevance of the articles, we conducted an analysis to explore the common ideas and values portrayed, to describe the discursive techniques and devices used, and to probe the role the media play in developing understandings of women and mothering in relation to woman abuse, substance use and mental illness. These findings provide a basis for linking media portrayals to other sites of social practice related to mothering including formal policy statements and everyday practices of policy implementation.

As described in Chapter 1, the particular discourses of *risk*, *rights* and *evidence* were assumed to be influential in current understandings of mothering. Further, as earlier described, we anticipated that there may be race/ethnicity and class dimensions related to ideas about mothering. We also knew that certain recent events and landmark cases have been influential in altering societal perceptions of mothering. Thus, we proceeded deductively, seeking to understand how these known discourses operated and how particular events might be echoed in today’s media and, inductively, examining the data for other influential discourses and events.

We found common features in the portrayal of women and mothers across the issues of woman abuse, substance use and mental illness. However, we also identified unique features in the portrayal of women as mothers depending on which issue was depicted as most central to the story. This chapter outlines our analysis of this sample of newspaper articles, and describes the way in which mothers were portrayed in these articles during this time frame.

News Media as a Window on Perceptions of Mothering

Campbell (1991: xxxii) explained that “most of us learn, in fragmentary fashion, about the rest [of] [sic] the world through mass media — and through news stories. News plays a crucial role in the construction, maintenance, and repair of...shared knowledge.” All forms

of popular media reflect social values, especially the values of those with authority (Turow 1997). Media evoke authority in two interrelated ways: the views of people with authority are most likely to be reproduced in media, and the media exert an intrinsic authority through the construct of journalistic objectivity.

Objectivity has long been a guiding principle of newspaper reporting. The criteria for writing an objective story include using an inverted pyramid form (story essentials in the first paragraph expanded as the article progresses), writing in the third person, using quotes from credible observers and including at least two sides to the story (Turow 1997: 180). Whether these techniques produce objective reporting is arguable. In fact, scholars of journalism claim that journalistic objectivity is illusory (Turow 1997; Van Dijk 1993; Callahan and Callahan 1997). News in particular is “not a picture of reality which may be correct or biased, but a frame through which the social world is routinely constructed” (Van Dijk 1988: 7-8). Turow (1997: 182) explained that a “posture of neutrality was purposefully built into the role of the journalist over the past century.” Although news organizations often see themselves as playing a remedial role by uncovering social problems that need correction, many writers refer to the press as a branch of government, as “an ‘objective’ press does not stand in opposition to the established order of things” (Turow 1997: 182). Thus, despite the media’s stance of objectivity, critical examination of media reveals values underlying the established order.

The mechanism of objectivity employed in the news media involves a storytelling formula, for, as Campbell (1991: xxii) pointed out, journalism is “in the business of telling stories.” This formula employs an appearance of objectivity, but serves to tell a story in a particular and proscribed manner. The formula consists of the use of third person narrative, inclusion of two or more sides of the story, the reverse pyramid structure (from general facts to specifics) and quotes from credible sources, usually powerful ones (Turow 1997: 180).

These techniques for conveying objectivity obscure the fact that positions are actually taken. Although conventional journalism invokes the metaphors of science (fact gathering, objectivity and information), the metaphors of literature (characters, conflict and drama) form the foundation for news stories (Campbell 1991: xxii). Thus, master narratives of folklore, fairy tales and myths are used, but masked by a veneer of objectivity. The position taken on any given story is announced in the headline and lead paragraph (Callahan and Callahan 1997). The eight imperatives that drive storytelling in journalism — immediacy, dramatization, personalization, simplification, titillation, conventionalism, structured access and novelty (Chibnall 1977) — then serve to elaborate and solidify the position taken. Dramatic human-interest stories involving life, death, conflict and scandal can encompass these imperatives effectively and thus make “good” stories.

Given these requirements, it follows that mothering makes a good story when it is novel, titillating, dramatic and so on, and when the story lends itself to master narratives, such as fairy tales and myths. The routine, mundane circumstances under which mothers struggle to raise their children, and of the mothers themselves, are thus seldom the object of press scrutiny. However, some mothers who are battered by their partners, who use illicit substances or have mental illnesses appear to satisfy journalistic needs and are thus

newsworthy. These stories present an opportunity to investigate the underlying values and the context within which policy discourses about mothering under these forms of duress are developed and enacted.

Examining Mothering in the News

This media analysis was based on all articles related to mothering and woman abuse, substance use and mental illness from three newspaper sources from May 1, 1999 to April 30, 2000. This time frame was the most current possible, given our analysis start date of April 2000. We obtained the articles from one regional and two national English language newspapers: *The Globe and Mail*, *National Post* and *The Vancouver Sun*. We selected these sources on the basis of their circulation characteristics and their varied reputations regarding political stance and style, in order to explore a range of representations of mothering. The maximum circulation figures reported by each paper during the data collection year were as follows: *The Globe and Mail*, 330,030; *National Post*, 390,931; and *The Vancouver Sun*, 253,900 (*Canadian Almanac* 2001). *The Globe and Mail* is a well-established newspaper, known for its business reporting and conservative stance. The *National Post* is a relatively new paper, generally considered quite conservative, and has recently emphasized a business focus as well. Both the *National Post* and *The Globe and Mail* purport to be national and international in scope, but have the bulk of their readership in Ontario, Toronto in particular. *The Vancouver Sun* is the dominant paper serving British Columbia, but is primarily aimed at the urban population surrounding Vancouver (the third largest city in Canada). It is considered somewhat more liberal than either of the other two papers.

The searches of *The Vancouver Sun* and the *National Post* were conducted using Canadian NewsDisc™, a bibliographic database that provides full text of every column and feature published by major Canadian news sources from 1994 to the present. The search of *The Globe and Mail* used the newspaper's own CD-ROM archive, which includes all materials from both the Metro Toronto and regional editions. We employed different search strategies for the two bibliographic sources because they use different controlled vocabularies to index their materials, thus requiring us to use different terms in each case to address the same topics. (For a detailed outline of the search strategies used with both sources, see Appendix A.) A library scientist conducted the search using the advice of the research team.

To describe the characteristics of the articles, all were read through and coded according to a consistent coding scheme. Specifically, all articles were coded in terms of source (i.e., which of the three newspapers), the type of news item (hard news, feature, opinion/editorial, letter, book review), rural/urban setting, whether race/ethnicity and class/income were mentioned, the province in which the event occurred (if known) and the primary subject (i.e., mothering and mental health, mothering and substance use, mothering and domestic violence, or "other"). Documents identified as "other" were then sorted according to topic (e.g., divorce, child abuse). Throughout the analysis, explanatory notes were made regarding categorizing decisions.

The remaining sample (i.e., those articles not identified as "other") was then subjected to more detailed coding. Having generated a descriptive profile of the articles, we drew on the principles of discourse analysis (Fairclough 1989; Potter 1997; Van Dijk 1993) to explore the

common ideas and values portrayed, the techniques and devices being used, and the role the media play in constructing perceptions of mothering. We examined how the major characters in each story (usually mothers, fathers, children, fetuses) were depicted (sympathetic, unsympathetic, neutral, as victims, perpetrators), the degree of ascribed responsibility for the events described in the story, how discourses about risk, rights, evidence, race/ethnicity and class operated, and how authority was constructed.

A coding sheet capturing the items described above was completed for each article, and the coded data were entered into a computer database (ACCESS) for ease of sorting and retrieval. Simultaneously, readers took detailed notes on each article regarding the features of each story, and the patterns between stories. The readers also took notes regarding the use of journalistic techniques and devices such as the use of metaphors, title, story structure, master narratives and so on. Articles in the individual subject areas were analysed independently and then compared across the subject areas. The larger research team broke into smaller teams with expertise in each subject area, and the analysis was conducted by working back and forth between these smaller teams and the larger one.

Sample

Using search terms related to our primary subject categories, the initial search identified 503 articles (see Table 1). Of these, the vast majority ($n = 443$) were eventually identified as “other” articles; that is, the search terms identified articles that were concerned with related areas but were not clearly about women who are pregnant or who are mothers and use substances, experience violence in their intimate relationship and/or have mental illnesses. Of the remaining 60 articles, 30 (50 percent) concerned mothers and substance use, 18 (30 percent) concerned mothers and mental health problems, and 12 (20 percent) concerned woman abuse. (See Appendix B for a complete list of all articles.)

As described above, those articles identified as “other” were read and coded, but did not receive detailed coding. These “other” articles illustrate the larger context of mothering as portrayed by these three newspapers. Key topics among these articles were:

- divorce, including issues of child custody and access;
- parenting;
- child abuse;
- reproductive technology, pregnancy and abortion;
- child care and parenting (e.g., day care); and
- social services.

Table 1: Initial Search Results by Category

	Initial Sample	Recoded "Other"	Sample for Detailed Coding
Woman abuse and mothering	85	73	12
Mental illness and mothering	23	5	18
Substance use and mothering	32	2	30
Other	363	Unchanged (363)	
TOTAL	503	443	60

The largest number of articles related to our study appeared in *The Globe and Mail* ($n = 264$). *The National Post* and *The Vancouver Sun* had fewer articles on mothering, with 142 and 97 respectively. We classified most of the material as hard news (329), but there were also 62 features, 53 opinion pieces or editorials, and 39 published letters to the editor. Within the articles, 153 dealt with legal matters (113 criminal incidents and 40 civil), and 17 dealt with social services or child welfare activities (14 dealt with apprehension and 3 dealt with social services investigations). Class was identifiable in 28 articles (through the use, for example, of phrases such as “the well-heeled millionaire” and less direct references such as “mobile home”). Race/ethnicity was mentioned in 25 articles (< than five percent), many of which remained in our final sample.

We documented wherever possible the location of the items being reported. Bearing in mind that *The Vancouver Sun* would be more likely to report events in British Columbia and that this distorts the overall results, we found that some regions of the country received greater attention in the press than others. Thirty-five percent of the articles dealt with Ontario, 30 percent were from British Columbia, and 18 percent reported on an event in Alberta. Events in Atlantic Canada, Saskatchewan, Manitoba and the northern territories were seldom reported, perhaps reflecting their relatively small populations. More surprising was how relatively few events were reported from Quebec (five percent), though this may reflect the fact that we only examined English-language newspapers. We were only able to identify whether the events were reported as occurring in an urban or rural location in 19 cases (less than four percent of the articles). While most of the items for which we could identify a location were within Canada, some 14 percent were international, most of which were events reported from throughout the United States. Note that none of these numbers may bear any relation to the actual number of events that occurred in any of these jurisdictions during the time of our study. Rather, they reflect what items were picked up and reported in the national editions of two newspapers and one regional paper from British Columbia.

Findings: Children Are at Risk; Mothers Are the Risk

The findings are based on the final sample of 60 articles. The detailed coding scheme provided an overview of the articles, and a basis for the thematic analysis that examined the ideas in more detail. This analysis revealed different portraits of women and mothering depending on whether woman abuse, mental illness or substance abuse was portrayed as dominating the particular situation, and further demonstrated similarities in the ways women are depicted.

In the detailed coding of 60 sample articles, it was clear that in these three situations, children were portrayed as being at risk, and mothers were predominantly portrayed as the risk (see tables 2 and 3). Being “at risk” meant being in danger of some sort of harm. Being “the risk” meant being likely to inflict harm or being responsible for harm being inflicted. Children were variously seen to be in danger of emotional and/or physical harm.

Table 2: “At Risk” Portrayals

Who Is Portrayed As “At Risk”?	Mentions* #	Percentage
Child/fetus	46	66
Mother	16	23
Man (including fathers)	4	6
Other	4	6
Not reported	0	0

Note:

* The total number of mentions is greater than the total number of articles, because in some articles more than one person was portrayed as “the risk” or “at risk.”

Table 3: “The Risk” Portrayals

Who Is Portrayed as “the Risk?”	Mentions #	Percentage
Child/fetus	0	0
Mother	36	52
Man (including fathers)	12	17
Other	18	26
Not reported	1	1

We also coded portrayal of characters by whether the portrayal was sympathetic. Sympathetic portrayal included explanations for behaviour, descriptions of socially desirable behaviours and expressions of empathy, whereas unsympathetic depictions predominantly consisted of ascribing blame and responsibility. Fathers were not portrayed at all in over half of the 60 articles. When fathers were portrayed, it was done sympathetically in 6 cases, neutrally in 8 and unsympathetically in 13. Similarly, in the 57 cases in which the portrayal of mothers could be determined, the portrayal ranged from unsympathetic in 18, and neutral in 16, to sympathetic in 22. Although the majority of both mothers and fathers were portrayed unsympathetically or neutrally, children were portrayed sympathetically or neutrally. Of the 51 cases in which the stance could be determined, children were portrayed sympathetically in 25, and neutrally in 21. The three cases in which children were portrayed unsympathetically involved teens.

Related to the degree of sympathy in the portrayal, responsibility for the events reported was often ascribed in the articles. In the majority of articles concerning substance use, the mother herself was held responsible for the situation being reported. For example, an article headlined as being about sterilization for “drug-addicted mothers” reported that the program is for women who bear “damaged children they are not about to care for” (NP199909020216).¹ For the articles regarding mental illness, overwhelmingly the mental illness was held responsible.

For example, in a story entitled “Elizabeth Ando’s Nightmare” which reported on a woman’s experience of obsessive-compulsive disorder (OCD), the mental illness was clearly blamed and held responsible for the events reported (NP199905120167). “For Ando, OCD is not just a troubling medical condition, it is a curse that very nearly cost her the things that she holds most precious in her life: her marriage and her new baby.” In articles about both substance use and mental illness, the “system” was frequently held responsible. In the case of woman abuse, in eight of the thirteen articles, a man (a husband or partner) was identified as responsible.

Table 4: Identified Responsibility by Category

Who Was Identified as Responsible?	Substance Use	Mental Health	Woman Abuse	Total *
Mother	24	2	3	29
Father/man	1	0	8	9
System	9	8	3	20
Other	(society/media) 2	(mental illness) 11 (culture) 1	(bad luck/fate) 2 (woman’s parents) 1	17

Note:

* The totals are greater than the number of articles as responsibility was sometimes ascribed to more than one person or phenomenon.

We also examined who or what the article identified as the “authority” with respect to the particular events being reported. Authority was generally ascribed to professionals, and most frequently to judges and social workers. In the woman abuse articles, women’s advocates, parents, medical personnel and social workers were identified as authorities. With respect to mental illness, named authorities included judges, medical personnel, reporters and other professionals, including social workers and professors. Articles on substance use drew on the most diverse range of authorities, including women’s advocates, children’s advocates, judges, parents, medical personnel, reporters and researchers. Advocates for women or children (including fetuses) were mentioned 15 percent of the times when an authority was ascribed, but only in the substance use and woman abuse articles. Notably, mothers were never treated as authorities in these articles.

These results provided a broad but limited overview of the articles. Because the articles drew on the conventions of newspaper storytelling, this count of who was seen to be at risk, who was seen as responsible or who was given authority oversimplified the messages conveyed. Following the formula for news reporting, these articles often invoked the master narratives of myth, folklore and fairy tales, as well as the language of science and objectivity, creating a complex message based on a mix of myth and fact. For example, the lead paragraph in the article regarding Elizabeth Ando’s “curse” of obsessive-compulsive disorder reads:

At first she seemed like an ultra-domestic housewife. Everything was in its place, the floors were polished, the counters scrubbed. But like the broom that went berserk in Walt Disney’s story about the magician’s apprentice, Elizabeth Ando simply didn’t know how to stop cleaning. She cleaned and

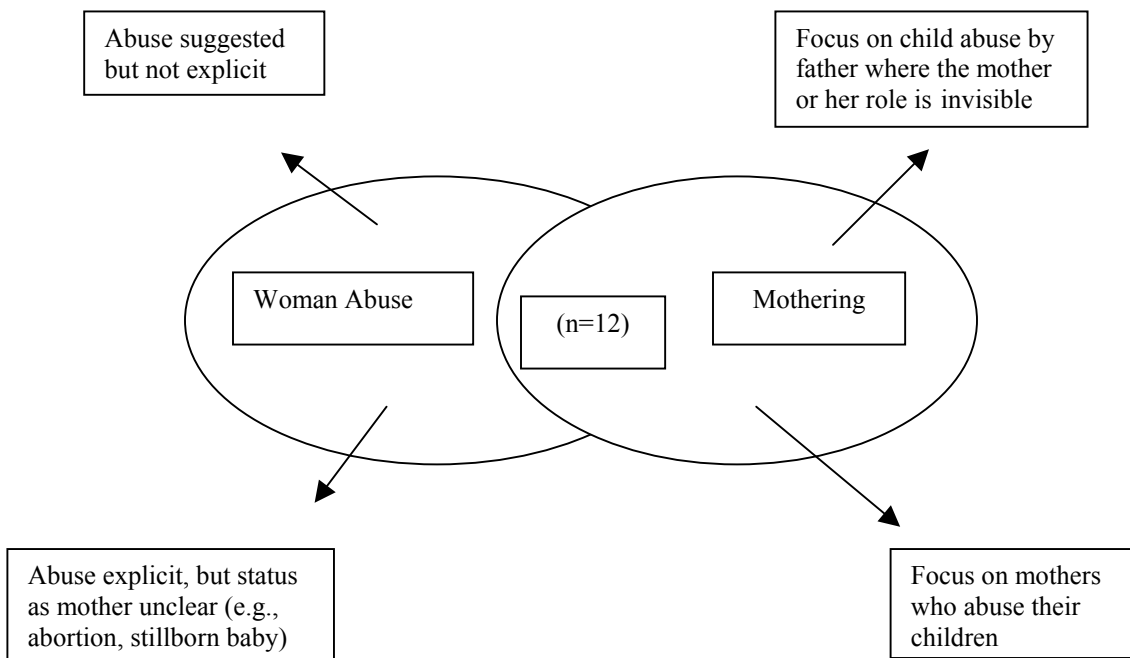
re-cleaned her house with a compulsion that often left her exhausted (NP199905120167).

Thus, although the mental illness is held responsible, and her baby seen as at risk, this is accomplished with fairy tale imagery and treats the mother in a particular manner. In another example, a story that is ultimately about Troy McCafferty killing Dania Carpenter's son sets up a fairy tale casting of the man as the monster, but headlines the mother. The headline reads "One day, she told herself, 'I will leave. Then, he won't hurt me or Jordie anymore.' Thirty-six hours later, Jordan was dead"(GM199912022565). Therefore, although we counted the man as being held responsible, the mother was subtly implicated. To understand how the discourses operated, we conducted a more detailed thematic analysis. The thematic analysis is presented first by primary issue and then across the three issues. Key themes within each issue are identified and examples provided to illustrate the analysis.

Mothering and Woman Abuse: Mothering Under Duress

Eighty-five articles were read and evaluated with respect to whether there was evidence of woman abuse and that the woman who was abused was also a mother. Twelve articles fulfilled both criteria; 73 articles were eliminated from the thematic analysis because although they were about woman abuse and/or mothering, these ideas did not intersect in an explicit manner. Briefly exploring the characteristics of the articles that were eliminated sets the context for understanding the articles that are clearly and explicitly about woman abuse and mothering. Articles were eliminated because abuse was not explicit, because the woman's status as a mother was unclear, or because the focus was on child abuse, and the mother was invisible or was the perpetrator of abuse without clear evidence that the mother herself was being abused (see Figure 1). These reasons for elimination often overlapped, precluding estimates of the number of articles in each case.

Figure 1: Characteristics of Articles on Woman Abuse and Mothering



In a number of articles, woman abuse was suggested but not made explicit. Incidents or behaviours were described that suggested to the reviewers the presence of woman abuse, but these were not identified as such by the authors. For example, one man decapitated his wife's exotic pets in response to her having had an abortion (NP200004150219). Despite what appeared to be control tactics by the husband, and despite research documenting a relationship between cruelty to animals and abuse (e.g., Flynn 2000), we were unable to find explicit evidence of woman abuse and thus rejected this article for detailed analysis. There were two articles that lacked evidence of woman abuse, but other sources, such as magazine articles beyond our sample, confirmed that the woman had been abused. These articles were also eliminated from the detailed analysis. This lack of explicit naming of woman abuse is troubling, and raises questions regarding what characteristics of woman abuse are newsworthy.

In some articles, woman abuse was explicit, but the woman's status as a mother was unclear. Sometimes, the woman was known to have children (from information in other sources), but that information was not included in the article under consideration, or there was only a simple mention that the woman had children, but no detail and neither mothering nor the children were part of the story. This suggests abuse of women can be considered in the media without simultaneously considering the impact of abuse on the woman's children.

Fifteen of the articles eliminated from the detailed analysis concerned child abuse. In these cases, either the children's father was the perpetrator, but the mother was absent from the story, or the mother was the perpetrator of the abuse and there was no indication that she was herself being abused. When the child's father or another male person had committed the abuse, while the child abuse was explicit, sometimes the mother was completely absent from the story; or the mother and her role were obscured, often by the use of gender-neutral terms such as "parent" or "parenting." For example, in a story about three children who were suing youth protection services for failing to protect them from their violent father who sexually and physically abused them (GM9908061265), their mother was identified as the fourth plaintiff, but otherwise not mentioned. In contrast, when a mother had harmed or was suspected of harming her child, the reporting typically converted to gender-specific language, ensuring that readers were clear about the woman's culpability. For example an article that reported on an inquest that headlined that a two year old "could not have sustained head injuries by accident...as the child's mother and boyfriend suggested," clearly identifies the mother and implies culpability throughout the article, despite the fact that "charges were dismissed at a preliminary hearing."

Thus, the overall sample comprised articles that occasionally linked woman abuse, child abuse and mothering, but more often treated them separately. Those that were rejected for more detailed analysis included articles about mothering or child abuse for which there were suggestions of woman abuse, but the abuse was not named. The picture suggested by these articles is one in which woman abuse is overlooked, women and children are considered separately, and child abuse is talked about differently depending on the gender of the perpetrator. The 12 articles subjected to detailed analysis were those in which woman abuse and mothering were clearly evident as reported in the story.

These 12 articles in which mothering and woman abuse intersect provide a disturbing portrait that extends the ideas suggested by the articles that were eliminated. The more detailed analysis suggests that not only is woman abuse generally overlooked in media representations, but by focussing on specific instances of violence, news media obscure and overlook patterns of abuse. Although men were identified as responsible in most of the articles about woman abuse, their actions were justified through news reporting conventions. Not only were women and children considered separately, but the welfare of children overshadowed that of their mothers. Not only were perpetrators of child abuse treated differently according to gender, but mothers were subtly implicated in abuse of their children perpetrated by others. Further, women were depicted as complicit in their own abuse as well as in the abuse of their children. In this sample of media portrayals, the epidemic nature of woman abuse, patterns of abusive behaviour and women's fear were markedly absent.

To illustrate some of these ideas, one article is reproduced below (GM9911096570). In this story, the woman was beaten, and her baby was stillborn. The woman subsequently died, but the abuse, and the birth and deaths were deemed to be unrelated. As shown below, woman abuse is evident, and the woman died giving birth (making mothering relevant), but the striking features of this article include the deliberate case building to disconnect these two facts, and to build the man's social value.

Colts' Muhammad Faces Three Misdemeanour Battery Charges

Associated Press, Canadian Press

INDIANAOPLIS, IN – Steve Muhammad, the Canadian Football League's rookie of the year last season, was arrested and charged with battering his wife 10 days before she died giving birth to a stillborn child.

The death of Nichole Muhammad was ruled accidental yesterday and not connected to the alleged beating. The coroner's office said she died Sunday from excessive bleeding during labour, caused by injuries in a car accident last week.

Muhammad, now with the Indianapolis Colts, was an outstanding defensive back with the B.C. Lions last season.

“At this point it's a leap to say that the two were necessarily connected,” said Beverly Phillips, a spokeswoman for the county prosecutor. Autopsy results were expected by today.

The Colts refused comment on Muhammad's case. “There's nothing for us to say,” spokesman Craig Kelley said.

Muhammad was charged with three counts of misdemeanour battery after surrendering to police.

As noted earlier, the position taken on any given story is announced in the headline and lead paragraph (Callahan and Callahan 1997). In this case, the headline indicates that the story is

about the Colts' (a football team) Muhammad facing charges. This indicates that what is important about the story is not the death of the woman and child, or indeed the abuse. Rather, the woman and child are absent from the headline, and the focus is on Muhammad's troubles that stem from the "charges." The charges are inflicted on Muhammad, and are depicted as unrelated to his actions. The lead paragraph picks up the position in the headline, where Muhammad is again the subject and the target of actions of arrest and charging. Further, the lead paragraph immediately establishes his social value by foregrounding his status as the "Canadian Football League's rookie of the year last season" before even mentioning his dead wife and child. The article then proceeds to build the case that the abuse and deaths are unrelated. The death "was ruled accidental," was "not connected," and the abuse and deaths were not "necessarily connected." Interspersed with this line of argument is a continued building of Muhammad's social worth by asserting that he was "an outstanding defensive back" who "surrender[ed]to police."

In this account then, the woman abuse was systematically downplayed and discounted. The focus on a single event ("battering his wife 10 days before she died") obscured the possibility of a pattern of abuse. The focus on the lack of a direct physical cause-effect relationship between the abuse and the deaths obscured the possibility that Muhammad's abuse of Nichole may have contributed in any way to the car accident. What is absent from this account is the information provided in other sources (APB *Celebrity News* 1999; CNN *Sports Illustrated* 1999) that Muhammad had battered the couple's child, that protection orders had been granted against Muhammad and that, at the time of the car accident, Nichole had been driving around after a beating, looking for her husband.

The case building and reporting conventions evident in this example were employed in the other articles to achieve similar effects. These effects are described under the various themes identified.

Either women or children were portrayed as victims, but not both

While research clearly indicates an overlap in the abuse of women and children by abusive partners/fathers (e.g., Bowker et al. 1988; Edleson 1999; Stark and Flitcraft 1991), in these articles the victimization of women and children was treated separately, as if the abuse of one has no impact on the other. Paradoxically, however, when a child was abused by the partner/father, the responsibility for protecting children was often linked to the woman. This selective pairing of women and their children under violent circumstances seems to follow along the lines of discourse that suggests women are responsible for children's safety even when it is the man who is abusive.

The focus was routinely on the specific violent "event" being reported

Violence against women was decontextualized from the wider realities of women's lives, and patterns of violence and the impact of abuse on women and children were absent from the reports. As detailed in the example above, single instances of violence against women were reported. Supporting these single acts as isolated outbursts, violence was often reconstituted as anger, and the violence was downplayed when, for example, men who were violent were portrayed as "mean, jealous bullies" (GM9907081760).

Men's responsibility for their violence was minimized

Although it was usually clear that a man was responsible for the abuse, even when a man was definitely the perpetrator of abuse, his responsibility was either obscured or displaced. In one article, the abused woman was quoted as saying she didn't want her child raised in a "violent home," which suppressed the fact that she was being abused by her partner (GM0004204521). And when evidence of her partner's violence was presented, it was in reference to his assault of an 81-year-old woman rather than to the ongoing abuse of his partner. Another article reported that a woman and her child were chased in their vehicle for several hours by her abusive ex-partner. He eventually pushed her car into an oncoming train. However, a police officer was quoted as saying her death was "bad luck" suggesting it was an accident and no one was responsible for her death (GM0004225029). Her neighbours said "everyone tried to talk to her about getting help" and her relatives were quoted as saying that "she never took his actions seriously enough" really indicating she was at fault. This is a case where the man was clearly at fault, but the article went on to blame the woman. Often, either systems or women appeared to be blamed for male violence when responsibility was assigned. For example, in an article regarding the death of a child, the perpetrator claimed everybody knew about his history of abuse, and the reader was led to conclude that it was social services and the woman/mother who acted irresponsibly by not protecting the child (GM9912022565). In this, and all other articles reviewed, there was no mention of the woman's fear of her partner or his threat to her safety.

Violent men were justified

A pattern of case building was observed in which rational or moral justification for the man's behaviour was presented. Techniques, such as devoting space in the article to talking about the factors that led the man to be abusive (e.g., a bad childhood, alcoholism or witnessing abuse of his own mother) (e.g., GM9912022565) created a sympathetic standpoint from which to view the man. Another article explained that the abuser "was always a violent person" implying it was his nature rather than his choice; and "his parents... were alcoholics who physically abused him and his nine siblings," implying a causal relationship between his own victimization and his victimization of his wife.

Another media approach to building a case on behalf of violent men was introducing evidence in support of his overall positive character. As noted, this was achieved for Steve Muhammad by describing him as a football hero who was "the rookie of the year" and "an outstanding defensive back" (GM9911096570). Another strategy was to offer a "balanced" perspective in which factors were introduced in a seeming attempt to offset male abuse. For example, a man who "torched" his wife was supplied with a motive in the news report as his wife "refused to acknowledge" his (unsupported) accusations that their child "was being molested by one of her boyfriends."

Women were often portrayed as complicit in their own abuse or in the abuse of their children. Many articles implied that the woman chose not to leave the relationship and, therefore, was at least partly responsible for the abuse. This assumes women have real choice over their decisions, an assumption which is clearly false in abusive relationships where safety is a key factor preventing women from acting in their own interests (for Canadian studies, see Merritt-

Gray and Wuest 1995; Mosher 1998; Wuest and Merritt-Gray 1999). Factors that inhibit women leaving abusive relationships, such as financial resources, a lack of English skills, fear and so on (Barnett 2000), were not identified in the articles reviewed. In articles in which husbands or boyfriends were the identified child abusers, the women were portrayed as not doing enough to protect their children, rather than the men being held accountable for perpetrating abuse against the children (e.g., GM9912022565). “As Jordie [the woman’s son] lay dying upstairs, unable to move because of his injuries, [Jordie’s mother] chatted with the man who beat him to the brink...” There were other more subtle examples of how the responsibility for the problem was shifted to women away from men who were perpetrators. For example, reporting that a woman who was being stalked “just couldn’t get away,” the author implied that the woman was lacking the necessary skills to escape her abusive ex-partner. Missing was recognition that this man was relentless, as are many other abusive men who intend to threaten, harm or kill.

Even when portrayed sympathetically, women were seen as responsible. For example, in one of the few articles to portray women in a positive manner (GM9912012402), the woman is painted as a “perfect” battered woman; that is, she has successfully left the relationship, her partner has been charged with assault and she has sought counselling for her children. However, the quote selected from the woman states: “I don’t want my daughters making the same choices I made.” This suggested the woman was responsible for her situation. In the articles reviewed, the writers chose not to focus on the character or behaviour of abusive men toward women and their children. This is a consistent feature of all the articles.

Class was often implied

Race and culture did not play a role in these articles. However, class was implied in many articles identifying the victims and perpetrators as “unemployed,” “poor working class,” “seasonal workers,” living in a “townhouse,” a “trailer” and “pawning videos.” The majority of articles about woman abuse implied at least some degree of poverty, which may merely be a function of the way wealth can insulate people from media scrutiny. However, taken as a whole, these articles give the impression that woman abuse occurs predominantly among the poor.

In summary, woman abuse in general, and patterns of abuse in particular, the relationship between women and children, women’s terror and men’s responsibility were absent or obscured in the articles concerning mothering and woman abuse. Men were often depicted as agentless, were not held responsible for their actions, and their actions were justified and explained. The duress experienced by women was often evident in these articles, but the connection between this duress and mothering was not addressed. Indeed, mothers were held responsible for protecting their children, and were depicted as complicit with their own abuse or the abuse of their children.

Mothering and Mental Health: Mothering Is Duress

The initial search revealed 23 articles on mothering and mental illness. After reading the articles, five were removed because they were deemed irrelevant, bringing the total number that were critically analysed to 18. The five articles that were excluded did not specifically deal with mothering, but were stories about mental illness and women. The depictions in

these five articles generally mirrored the trends observed in the stories about mothers with mental illness.

Of the articles that were reviewed, there were several pieces on the same sensational cases. This suggests that only certain kinds of stories about women, mothering and mental illness get media attention. For example, all the articles we analysed related stories about women who had murdered, injured or had somehow posed a risk to their children or to the children of others. This was congruent with the large number of articles that were eliminated from the analysis because they focussed on women who abused their children. Absent were stories that related the challenges of mothering with a mental illness, or stories about “successful” mothering under these conditions. Several themes emerged from our analysis that illustrate the ways in which mothering and mental illness were portrayed.

Women with mental illness were portrayed as posing a danger to society

Sensationalizing mental illness in the media and in popular culture more generally is a common trend. Stories that illustrate dramatic changes in a person’s personality and the dangerousness of those with mental illness abound. Particularly popular have been the stories of women with diagnosed schizophrenia or personality disorders, for example, the story of *Sybil* which relates a woman’s development of multiple personalities brought on by the sadistic abuse of her mother, or the popular book and film, *The Three Faces of Eve*. Stories of men with a mental illness tend to be synonymous with criminality or sexual deviancy. Think of the numerous films and stories about psychopathic men who stalk and murder women or children. These images of mental illness in North American culture stand in for more balanced realistic accounts of people’s struggles with mental health problems. These stories reflect deep social fears about “abnormality” and reinforce the idea that people with mental illness are a subset of highly disturbed individuals who are distinctly different from the average person.

This trend toward sensationalistic representations of mental illness was also evident in the articles we reviewed. Implicit in many of the articles and explicit in some [“BC: Mother Allowed Out” (NP0002080236) and “Woman terrified neighbours, inquest told...” (GM9909163635)] was the idea that women with a mental illness are dangerous not only to their children, but to society in general. Women in these stories were seen as unable to control themselves, and the assumption was that they must be restrained for their own and society’s protection. In our selection of articles, the most dramatic cases were reported numerous times, and the language used to describe the woman’s mental illness was often sensational, adding to the impression that these women are dangerous and unpredictable. For example, in a news report where a mother murdered another woman’s baby, the following description of her illness was used. “The illness, like a fast spreading cancer, overtook her and ended up involving almost everyone she knew” (GM9909112347). In another case cited earlier, a woman’s diagnosis of obsessive-compulsive disorder was described as “a nightmare” and a “curse that nearly cost her the things she holds most precious in her life: her marriage and her baby” (NP9905120167).

Discourses of femininity, mothering and mental illness intersected

Our analysis revealed a number of other interrelated themes. Several tell us something about the ways in which discourses of femininity, mothering and mental illness interact. A signature of this is the message that women (more so than men) are biologically vulnerable to mental illness because of their reproductive capacity. This was illustrated in several articles that described the cause of women's mental breakdowns as directly related to anxieties about pregnancy and postnatal fears. Throughout one article, a woman's mounting anxiety before the birth of her child was repeatedly described as her "dirty little secret" (NP9909090169), emphasizing the shameful nature of mental health problems. Despite use of such language, this particular article proceeded to assure readers that these experiences are common and women should seek help.

Related to the idea that reproductive capacity creates vulnerability to mental illness was the notion that mothering places women at risk for mental illness; that is, mothering *is* duress. A number of articles spoke about the stress women were under in caring for their children and suggested the burden of caring for children could precipitate mental breakdown and irrational acts. Interestingly, the articles in which this theme was found most often described women who were mothering children with a disability. For example, in one case where a woman had murdered a daughter with a disability, the woman is described as an "exhausted, distressed and burned out mother" who "snapped" (NP9912010254).

Although, as the above examples illustrate, pregnancy and mothering were seen to weaken a women's mental state; on the flip side, women's poor treatment of children was immediately seen as evidence that women were mentally ill, especially in cases of infanticide where no particular stress (such as severe disability of the child) was apparent. In other words, behaviour that goes against women's "natural" mothering instincts (caring, nurturing and selfless behaviour) was labelled abnormal.

Culture/ethnicity were portrayed as problematic

That mental illness and duress caused by pregnancy and mothering should have particular (i.e., culturally specific) "feminine" forms of expression was evident in the one article in which culture and ethnicity are explicitly mentioned. This article described a case involving a young South Asian woman who murdered her child. Rather than attributing the murder to a possible mental illness, it was attributed to the "constraints" placed on the woman due to her "culture." Thus, the murder in this case was described as being precipitated by the woman's "strict East Indian values" and her "problems with anger control" (VS9905180055). This woman is positioned outside the norms of White Western femininity and is, therefore, seen as more culpable for her behaviour and more deviant.

Expert and sensationalist views co-existed

In these articles, sensationalist discourses about mental illness existed simultaneously with expert and medical discourses that attempted to portray mental illnesses as akin to physical illnesses with biological and genetic causes. Overwhelmingly, mothers with mental illness were not seen as responsible for their actions toward their children. Rather, they were most often portrayed as victims of circumstances beyond their control. Images of mental illnesses as tragic (albeit mysterious) diseases were common. The result was that women's actions

were often decontextualized and reduced to their mental illnesses. Few stories described the kinds of social conditions under which women might be mothering. The role of fathers and other potential support people in a woman's life were virtually ignored. Women with mental illnesses were portrayed as being unable to sustain intimate relationships and those around them were described as frustrated, angry, exhausted and unable to help. Essentially, this reinforces women's primary day-to-day responsibility for children as though fathers and relatives are merely there to assist if things get tough.

In portraying women as victims of mental illness, many of the articles took on a paternalistic tone, suggesting women must be protected from themselves and their illness. Medical solutions to women's problems were often the only solutions proffered in the journalist's analysis of the situation. This perspective may have been fuelled by the fact that some of the articles were written during political debates about whether the powers of the mental health acts should be expanded to more easily commit people involuntarily if they are not complying with treatment regimes (i.e., medication). The need for this expansion is "proven" through stories of "out of control women." The "system" was therefore blamed for the described tragedy in many of the articles. The "system," in turn, was portrayed as crippled by current policies, legislation, procedures and a lack of resources.

Mothering and Substance Use: Mothering Under Disapproval

Thirty articles pertaining to mothering and substance use appeared in the chosen print media during the selected period. The articles included one book review, two features and two opinion/editorial pieces, eight letters and 17 "hard news" stories. Compared to the woman abuse and mental health articles, the greater number and types of articles reflect greater attention/scrutiny of mothers who use alcohol and other drugs. An overview of the general content of the articles and their view of mothers is captured in Table 5.

Mothers were portrayed as harming their children

The dominant theme throughout these articles was that mothers put their children at risk because of their substance use. The child/fetus was presented as at risk related to exposure to substance use in 87 percent of the articles, while mothers were presented as at risk in 13 percent of the articles. Mothers were portrayed as at risk of male violence and society's censure.

Substance-using mothers were consistently seen as *the* risk to their children. This view of mothers extended beyond being of risk, to a blatant lack of sympathy toward, and strong censure of, pregnant women and mothers who use substances. This stance was positioned in dramatic opposition to the plight of the children. The following quotes from two judges, one in Montana and one in Sault Ste. Marie, illustrate this stance.

If she wants to drug herself to death fine. But we can't have her taking drugs when she's pregnant (NP0002180211).

Jail, real jail is called for. I'm going out on a limb, not for you, but for your child. For the next 30 days, think very carefully of your child and, hopefully,

that will keep you out of trouble (judge in Sault St Marie, Ontario who sentenced woman to house arrest as opposed to jail) (NP0003040300).

Table 5 Mothering and Substance Use

# of Articles (total = 30)	Content	View of Mothers
5	Stories about women facing charges from the judicial system related to the impact of their substance use on their children.	Unsympathetic.
1	Story of a conservative group advocating sterilization of drug-addicted women.	Unsympathetic.
1	Story of a father facing charges in the judicial system for injecting his daughter and her friends with illicit drugs.	No view of mother; father viewed sympathetically.
1	Story of a recovering woman from her own perspective, reinforced by the treatment program she attended.	Sympathetic, yet revisited negative stereotypes.
3	Relating to announcement by the Minister of Health of funding for initiatives on prevention of fetal alcohol syndrome (FAS).	Neutral.
1	Story of a young woman who is herself affected by FAS who murdered two children.	Sympathetic, yet reinforcing an extreme view of impact of FAS.
8	Letters reacting to articles and studies about women's substance use during pregnancy, when breast feeding, and as mothers.	3 unsympathetic, 1 sympathetic and 4 neutral.
4	Related to a book advocating a more sympathetic view of substance-using mothers.	Unsympathetic to mothers and to the author.
5	Studies on the impact of parents on teen smoking and impact (brain damage and behaviour problems) of mother's substance use on children.	Neutral or unsympathetic.
1	Story of parents of a runaway child who became addicted to crack and had children who were affected by her use.	Sympathetic to parents, no perspective on the mother.

This dislike of mothers, placed in opposition to strong sympathy for their children, was also evident in the perspective of journalists. A reporter for *The Vancouver Sun* presented the case of an alcoholic mother who drove to the store under the influence, without realizing that her four-year-old child was hanging on to the car bumper.

She lived in a trailer on the edge of Kemptville, a single mother and a lousy housekeeper. On the afternoon of December 4, 1998, while she waited for her three children to return from school, Angie Laceleve, then 27, got recklessly drunk on vodka martinis (VS9912020217).

The coverage of this woman's situation concluded with the following quote from the judge who sentenced her to nine months in jail and three years probation. "There are no assets in our community more precious than our children or more deserving of our protection."

The hostility toward mothers was also evident in the public discourse presented through letters to the editor from child/fetus advocates. Often, outrage and anger were expressed toward women who used alcohol during pregnancy. One article and a series of letters were

actually entitled “moral outrage and motherhood.” One letter equated substance use during pregnancy to “pointing a gun at the head of another person.” Other letters advocated a registry of drinking women, termed women’s use during pregnancy as “selfish behaviour” and called it “playing Russian roulette with a child’s brain.” News coverage in the *National Post* of an American public advocacy group that advocated sterilization of substance-using women of childbearing age (“to curb the births of impaired or damaged babies”) represents the most extreme end of this dislike of substance-using women, again coupled with strong positive identification with the children.

Ms Harris’ crusade (for a program of cash-for-sterilization) began after she adopted four children from the same crack-addicted mother a decade ago. She was touched by the chance to nurture the children and was angered that the mother was allowed to continue having children. After losing a year-long battle that would make it illegal to give birth to a drug-addicted baby, she started a program that paid women to choose birth control instead. “Money has always enticed people to do things” said Ms Harris (NP9909020216).

Negative attitudes toward mothers who use substances were also in evidence from “expert” sources that are commonly portrayed as neutral. For example, a Statistics Canada research Team, headed by R.O. Phil, described heavy drinking mothers as “ineffective” and “hostile,” and as causing aggression and a range of other problems in their children (GM9912308714). This article also linked this research to findings from other unspecified studies that connected substance use by mothers to “mayhem” in the home, including dropping children, other violence against children, and even fires started by mothers. In this article, other “experts” contributed to the negative view of substance-using mothers by expressing pessimism about the possibility of bringing about change in women’s use, calling it a “fiendishly difficult problem to address.” Buried within this sweeping negative view of substance-using mothers is the statistic that the vast majority of mothers do not drink, or drink at safe levels, and that Statistics Canada only found the high level of use and potential associated harmful effects relevant to 3.5 percent of mothers.

It is interesting that this unsympathetic view was also extended to those who advocated for more understanding of the potential of substance-using mothers and less censure of them. In several articles, author Susan Boyd (1999) was interviewed about her book, *Women and Illicit Drugs: Transcending the Myths*, in which she challenged the automatic equating of substance-using women as poor mothers, contextualized women’s use and challenged the lack of systemic support provided to substance-using mothers. In one article on her research (NP9905080273), Boyd was labelled as part of the “cement of academic gender feminism,” “naïve,” “curiously indifferent” to the needs of children and a poor writer. In another article (VS9905100086), she was asked if she was a mother (as if being a qualified researcher would not have been adequate). A letter to the editor (GM9905130378) suggested she was “hoodwinked” by the 28 drug-addicted mothers she interviewed, when she represented them as having the potential to be good mothers.

Only one “good news” story about a woman with a substance use problem appeared, centred on a woman in recovery (VS0004270171). While the article gave voice to the changes she

was making, it also went into detail about her previous struggles with substance use and dwelt on the stereotypes in a way that did not vanquish them.

Sarah suffered from the stigma peculiar to female alcoholics and drug users — she couldn't divorce her addiction from her own remorse at being a bad mother (VS0004270171).

The article goes on to quote the well-intentioned director of the women's treatment centre program that Sarah attended, in a way that reinforces the stereotype of women alcoholics.

But if a woman were to do that (get drunk) it would be considered unseemly — she would be considered a slut (VS0004270171).

In summary, in these articles on mothering and substance use, women were portrayed primarily as harmful to their children. The deviant, damaging and criminal nature of women's behaviour when using substances was emphasized, with attendant expressions of censure, disapproval and dislike.

Race and class were often imputed as relevant

Ten (33 percent) of the articles concerned with mothers and substance use mentioned race and class. In three instances, people were identified as middle class and in seven instances substance use was linked to working class or Aboriginal status. In an article where class was mentioned separately from race, women with addictions were depicted as being on welfare and "unwilling" to work. Most often, the identification of racialized groups was connected to lower class status.

Most unsettling was the mention of race and class in the article advocating sterilization of drug-using women, where poor Black women were seen by an organization of conservative White women as appropriate for a "cash for sterilization" program (NP9909020216).

U.S. literature on the punitive approach taken toward pregnant substance-using women in the legislative, treatment and child welfare arenas, well documents the racism inherent in this approach. Dorothy Roberts (1991) in an article in the *Harvard Law Review* stressed how the prosecution of pregnant and parenting addicts in the United States is explained by gender inequality and a combination of race, gender and economic status.

Canadian researchers have illustrated how race and class intersect with women's health and substance use. Among them Susan Boyd (1999: 26), whose research focusses on the negative stereotyping of substance-using mothers, underlines how "in Canada, First Nations women, poor women and single mothers appear to be over represented in terms of arrests, child apprehensions and medical interventions." The Supreme Court case involving Ms. G, "a young woman marginalized by her indigence, her status as an Aboriginal, by her repeated pregnancies, and by her general physical health" became a national example of this pattern (McCormack 1999: 79). The case of this substance-using mother "became part of the backlash against welfare expenditures and welfare dependency, while evoking racist stereotypes of native people" (McCormack 1999: 81).

In the articles related specifically to fetal alcohol syndrome, FAS was often linked to being disadvantaged and of Aboriginal descent. Although the Federal Minister of Health avoided these associations when he announced funding for FAS initiatives (NP0001290288), others often introduced such associations. In one article, about new funding to prevent FAS (VS0001290118), an unsubstantiated statistic documenting FAS as being 10 times more prevalent in Aboriginal communities was put forth by a renowned expert in the FAS field. Such discourse serves only to continue to bring Aboriginal women under intense scrutiny for their substance use during pregnancy and as mothers, without bringing visibility to the current or needed supports to assist Aboriginal women in improving their own health and the health of their families.

Fetal alcohol syndrome was a focus

The funding from Health Canada to fight fetal alcohol syndrome, as well as commentary by child advocates on FAS, were a focus of the media coverage in our chosen time period. In all this coverage, the impact on children/young adults as a result of their mothers' use of alcohol in pregnancy was highlighted, especially the loss of productivity and the lifelong, costly supports needed by those affected by FAS. None of the articles discussed programs that would effectively serve to help women reduce their use of alcohol and improve their overall health in pregnancy so FAS would be prevented. Women's health advocates have found it difficult to establish women's and mother's substance use as a health issue of concern to funding agencies and policy makers. It is ironic that while prevention of FAS, an aspect of substance use by mothers, is on the national agenda, it remains a struggle to keep a focus on the support and treatment of mothers.

Within the discourse on FAS in this sample of articles, the sub-themes of risk, rights and evidence were apparent. Findings of studies of the larger discourse on mothering and alcohol/illicit drug use during pregnancy concur with, and expand, these themes. Janet Golden (1999, 2000) of Rutgers University is well respected for her analysis of the portrayal of pregnant substance-using mothers on American television from 1973 to 1996. She documented how women who used substances during pregnancy were initially portrayed sympathetically as having health problems. However, this discourse changed under the leadership of government officials and legal professionals. FAS came to be understood as a "*social deformity that expressed the moral failings of mothers and marked their children as politically marginal and potentially dangerous*" (Golden 1999: 270). As in the present media analysis, she found that "*critical to this reframing of FAS was its identification with a racial minority — Native Americans, its interpretation as an expression of maternal/fetal conflict, and its economic and social costs*" (Golden 1999: 270).

In this study, media attention was focussed on the impact of mothers' use of alcohol and illicit drugs during pregnancy and beyond, while the effect of smoking on the health of women and their children received little attention. One media article in this period made claims from a research study on the alleged impact of mothers' smoking on later "conduct disorder" in their sons and drug dependency in their daughters. Since the time period chosen for this study's purpose, some media attention has come to bear on the "right" of mothers to smoke in the presence of their children. As a result, we used an example of the action taken against one mother who smoked that appeared in the media in December 2000 (*The Globe*

and Mail Dec 15, 2000). It was a prompt for comments gathered in the focus groups of women with substance-use problems described in Chapter 4.

Many forms of evidence and authority, other than mothers themselves, come to bear

In the 30 articles examined, 52 authorities were identified, over two thirds of whom were researchers, medical experts, addictions experts, professors, court personnel, government policy makers and other professionals. Of this group, researchers were most often cited, demonstrating how predominately scientific “evidence,” often focussing on single dimensions of behaviour, is relied on to explain complex health, economic and social problems. Judges and prosecutors were the next most often quoted, illuminating how the deviant and criminal nature of women’s use becomes a dominant theme. Often, through letters and opinion pieces, advocates of children’s rights (situated in opposition to the rights of their substance-using mothers) had a strong voice. Advocates for women were rarely presented and then, as noted, were criticized. Mothers themselves, as experts, were absent.

The context of women’s substance use or concern for women’s health were absent

Consistent with the prevailing pervasive punitive war on drugs approach to drug policy and drug users, substance use by mothers was rarely contextualized. Substance use was presented as an individual, deliberate and poor choice, causing harm to children. The war on drugs mentality was made compelling through the frequent use of words like “crusade,” “battle,” “fight fetal alcohol syndrome,” “controversial,” “getting to the mothers” and “surveillance.” Writers rarely considered the social determinants of women’s health. The exception was the mention of the impact of residential schools on Aboriginal women’s health, poverty and other health determinants. These issues were presented as being raised by Susan Boyd and accompanied by challenges regarding their veracity. (See, for example, NP990508273, VS9905100086, GM9905130378 and VS0004270171). Closely related to this lack of understanding of the influences on women’s substance use were the lack of concern for the impact that substance use had on the health of women and for health interventions that might support women’s improved health and, in turn, their capability as mothers.

Fathers were absent

In the 30 articles in this sample, fathers were largely absent. When they were mentioned, they were portrayed as a risk toward children in two instances, and as partners of substance-using women in two instances. The two articles that focussed on the impact of fathers on their children were both about fathers’ contributions to teen drug use. The first article discussed substance use and the negative impact of *fathers’* lack of participation in their children’s lives, but went on to make recommendations to *parents* regarding how they should be more communicative and supportive of their children (NP9908310204). In the second instance, when a substance-using father directly and repeatedly (75 times) injected his daughter and her friends with methamphetamines, it was ruled that he “had no intent to harm”; his capacity to parent was not a consideration, and the testimony of the children was considered suspect. The headline read “‘Cool’ father gave drugs to teens” (VS0004010121). For lesser acts, mothers were dealt with in other articles far more punitively and judgmentally.

In only two articles were men mentioned as partners of mothers with substance-use problems. In the case of an English mother convicted of murdering her children, her partner was

portrayed as supportive, believing in her innocence, despite the verdict, blaming her conviction on “flawed medicine and statistics” relating to sudden infant death syndrome (NP9911100209). While not made explicit, it is implied that he was blind to his partner’s problems, particularly as he was away on business when both of the deaths happened. In the case of the pregnant mother in Sault Ste. Marie, who was addicted to morphine and sentenced to house arrest, it was mentioned that she was to have no contact with the baby’s father. He had gone to jail after pleading guilty to nine charges, including some of the charges she was facing (GM0003043898). It is common for mothers with substance-use problems to have absent or very unsupportive partners who have played a part in introducing them to substance use, pressuring them to continue substance use, and involving them in criminal acts related to substance use. Congruently, the articles did not allude to the potential positive role or the responsibility of men in fathering or supporting their partners/spouses as mothers.

Systemic responsibility was not a concern

The writers of these articles did not attend to the responsibility of the system to respond effectively to women. The court-directed solutions did not attend to the need for management of withdrawal from alcohol and drugs, nor treatment. The articles alluded to, but did not elucidate or advocate for, the substance-use treatment system and harm reduction efforts, such as methadone maintenance for heroin addicts. The presented “solutions” to women’s substance use were punitive in nature, not supportive of growth or improvement in women’s health, social relationships or economic situation.

Confrontation by the public (including by proud “busy-bodies”) was aired as a reasonable intervention strategy. The systemic strategy of monitoring the incidence of fetal alcohol syndrome was mentioned, but no other systemic response emerged, most notably none that hinted at a caring and respectful response to the needs of substance-using mothers by the health, justice, child welfare or other systems.

Comparison of the Three Cases

The three cases of mothering under duress differed in the degree to which mothers were held responsible for their own and their children’s situation. For example, whereas women who were substance users were portrayed as willful and abusive (particularly with respect to their unborn or living children rather than of themselves), women with a mental illness were regarded as not being in control. Women in abusive relationships were deemed to have done things to bring their situation on themselves.

Figure 2: Women’s Responsibility

Mental illness	Woman abuse	Substance use
Out of woman’s control	Somewhat within her control	Deliberate

Depending on the circumstances, we saw distinctions in the degree to which the social, medical or legal systems were portrayed as responsible for the situation being reported. For women suffering from mental illnesses, there was some sense that the system was failing to provide for the women adequately and was, therefore, somewhat responsible when things went tragically wrong, such as when a woman’s unrecognized or untreated mental illness

was associated with her harming her children. The system was less likely to be blamed in instances of either woman abuse or substance use. These problems are portrayed as resulting from the women's own behaviour or deficiencies.

Figure 3: System Responsibility

Mental illness	Woman abuse	Substance use
System failing	Limited system failure	Not system's fault

A great deal was said in the articles about the need for services to assist and protect children in situations involving woman abuse. Little was said about the need for greater services for women in these situations. Similarly, the need for services for children that arise as a result of maternal substance use was visible and children with FAS or fetal alcohol effects (FAE) were quite visible. However, children were not even part of the story in the case of maternal mental illness, and there was no discussion of what to do for children in such situations.

Children in all three cases were consistently portrayed as “worthy” victims, whereas women were variously portrayed as “worthy” and “unworthy” depending on the degree to which they were deemed responsible for their circumstances. Thus, women who were substance users were generally deemed unworthy as they were portrayed as responsible for their fate through their willful actions. Women who experienced abuse were viewed as potentially responsible for their circumstances, which rendered them as unworthy victims. Women with a mental illness were sometimes portrayed as victims of illness but, more often, as potential victimizers, particularly of children. Further, women with a mental illness were portrayed as threats to other people's children and to society at large, not just to their own children.

In our analysis of the role of risk, we examined whether and how fear operated in relation to risk. The articles suggested that mothers with a mental illness are to be feared for their unpredictability and the potential risk they pose to others. Ironically, with respect to situations of woman abuse — where violence is a real risk — fear was not a feature. The risk of further violence to the point of homicide, a legitimate fear that a woman should have in such situations, was not discussed. In the case of substance use, fear was not portrayed (except perhaps society's fear of having “damaged” children). Rather, anger was expressed toward the mothers. The implied message was that there was no need to be afraid in such situations because, while the women were deemed to be out of control, they were only in danger of hurting themselves and their immediate families, not “innocent” others.

Notably absent was mention of context, that is, any discussion of the larger situation in which women find themselves. This reflected assumptions about individual responsibility. In particular, substance use was never portrayed as coping behaviour (e.g., for living in impoverished, difficult conditions).

Also notably absent was any discussion of fathers. Women who use substances were typically not portrayed as having partners. Women with a mental illness were seen as incapable of forming and maintaining relationships, so presumably there was no need to describe other family members in these women's lives. In situations of woman abuse, where the perpetrator was often the woman's husband and father of her children, the omission of any discussion of

fathers resulted in the invisibility of the perpetrator. Women were portrayed as living in violent households without locating the source of the violence in any particular individual. This contrasted sharply with the fact that fathers were discussed extensively in the “other” articles that were eliminated from thematic analysis, particularly in relation to divorce and questions of child custody and access.

Conclusion: Monster Mothers Make News, the News Makes Monster Mothers

This analysis illustrates that while mothering is seldom within the gaze of the newspaper media, monster mothering makes news. For example, instead of violence against women being a topic of news, stories about mothers abusing children, a relatively less common problem, are vastly overrepresented in the news. Similarly, rather than the plight of women with a mental illness or addictions being reported, such women are primarily portrayed when they pose a risk to their children.

This analysis of the portrayal of mothers as monsters is congruent with broader analyses of media portrayals of mothering. Chibnall (1977) identified the “eight imperatives controlling journalism” as immediacy, dramatization, personalization, simplification, titillation, conventionalism, structured access and novelty (in Callahan and Callahan 1997: 52). Dramatic human-interest stories involving life, death, conflict and scandal make “good” stories. Thus, the circumstances under which mothers struggle to raise their children or of the mothers themselves are seldom a press focus. Callahan and Callahan (1997) noted that when mothers are portrayed, they are generally presented in relation to enduring images of “good” women who are selfless, innocuous and chaste, “bad” women who are selfish, dangerous and promiscuous, or “two-faced” women who appear “good” on the outside but who are really “bad” on the inside. “Good” mothers are not newsworthy because they simply fulfil societal expectations. “Bad” mothers are newsworthy because, in some way, they violate expectations and their actions require explanations. To illustrate, when *The Globe and Mail* ran its Family Matters series in 1999/2000, which focussed on routine aspects of the family rather than sensational stories, readers complained that this series was self-indulgent and un-newsworthy.

While, in our material, mothers were often unsympathetically portrayed by the media — bad mothering is news whereas good mothering can be taken for granted and is, therefore, not newsworthy — there were variations in which mothers were viewed most unsympathetically or with some sympathy. The stories about mothers with a mental illness provide an example of the way in which mothers are sometimes viewed sympathetically. However, in this instance their “sympathetic” portrayal was overlaid with stereotypes about mental illness which worked to undermine any discussion about the social conditions (most often in poverty, without support from fathers, with inadequate housing) under which women with a mental illness mother. The lack of attention to social context was a feature across the cases. Reports on mothering under duress, like child abuse, are written in the context of capitalist ideology which emphasizes “individual rather than structural causes [and] diverts attention away from the structure of power relations in capitalist society” (Hachey and Grenier 1992: 236). Consequently, mothers, social welfare workers or psychiatrists are blamed when a child suffers, “rendering further discussion and analysis unnecessary. The status quo is reaffirmed: social structures require

few changes; the behaviour of people who deviate from prescribed norms ‘is an expression of their differentness, their sad inability to live by the sensible rules of normal society’” (Chibnall 1977: 20, as quoted in Callahan and Callahan 1997: 52-53).

This analysis illustrates that the news media use a standard mix of storytelling and illusory objectivity to portray mothers as women who are, at best, responsible for most of the harm that befalls them and their children and, at worst, monsters who damage and harm their children. In doing so, the media obscure the behaviour of others and the social context in which motherhood is enacted. The media thus participate in developing and sustaining understandings of women and mothering in relation to woman abuse, substance use and mental illness that emphasize the individual responsibility of women, and overlook the ways social policies shape and constrain mothering. As monster mothers make news, so the news media participate in the creation of monster mothers, as an image for use in wider social practices.

3. POLICY STRUCTURES THE CONTEXT

US Supreme Court Agrees that Searching and Arresting Pregnant Women at Hospital Violates United States Constitution

Wednesday March 21, 2001

Today, the US Supreme Court agreed Americans have the right to expect that when they seek medical help, their doctor will examine them to provide a diagnosis and treatment, not search them to facilitate their arrest. For nearly five years, a state hospital in Charleston, South Carolina collaborated with the local police department to search pregnant women and new mothers for evidence of drug use — without a warrant or their consent.

Instead of using this information to provide appropriate medical care and treatment, medical staff gave it to the police who arrested women right out of their hospital beds. They were shackled and chained, some of them still pregnant, others weak and bleeding from just giving birth.

Ten women, however, had the courage to stand up and say that this was unacceptable and unconstitutional. Today the United States Supreme Court agreed. The decision affirms that the Fourth Amendment to the US Constitution protects every American — even those who are pregnant, even those with substance abuse problems — from warrantless, unreasonable searches. This case represents the intersection of the war on abortion and the war on drugs — using claims of fetal rights and false alarmist assertions about drug use to justify unprecedented violations of patients' rights to the detriment of women and children.

Organizations ranging from the conservative Rutherford Institute to the American Civil Liberties Union and medical groups including the American Medical Association, the American College of Obstetricians and Gynecologists and the American Public Health Association opposed the policy. In addition, more than 140 leading researchers and organizations joined in a public letter to the US Surgeon General urging him, regardless of the outcome of this case, to oppose punitive approaches to substance abuse during pregnancy because they deter women from seeking critical pre- and post-natal care and drug treatment that can help them and their babies be healthy.

Excerpt from Lynn Paltrow, Esq., National Advocates for Pregnant Women., on *Ferguson v. City of Charleston*, 99-936.

In this chapter, policy discourses which frame the three areas (substance use by pregnant women and mothers, mothering by women who are abused by their partners, and mothering by women with mental illnesses) are examined.

The emergence of child-centred public policy discourse and discourse that constructs children's interests as competing with the interests of mothers is a dominant theme in this analysis. The themes of competing rights, how risk is constructed and the role of expert knowledge or evidence are useful in capturing commonalities and differences found across

policies affecting mothers in the three contexts. Our analysis is also framed by an understanding of how these policy discourses operate differently for women who are marginalized by income, class, disability, sexuality and race.

Media and policy discourses are in a constant dialogue. At times, the situation or case of a mother given high profile in the media is followed by legislative and policy changes. At other times, the impact of previously enacted legislation and policy becomes the focus of public discourse. An example of a mother's story that dramatically influenced policy (even as policy was being drafted and enacted) is that of Verna Vaudreuil, whose son died in her care in British Columbia in 1992 and who pled guilty to his manslaughter in 1994. British Columbia's current legislation and policy relating to mothering is crystallized in the Gove Inquiry into Child Protection (1995) put in place to examine the death of this child. Judge Thomas Gove was appointed to "report and make recommendations on the adequacy of services and the policies and practices of the Ministry of Social Services in the area of child protection" (Gove 1995: 4), as they related to the death of Matthew Vaudreuil.

In this inquiry, we see the beginning of the now dominant trend toward a child-centred perspective in child welfare policy. Judge Gove announced that he was taking a child-centred approach in investigating Matthew's tragic life of neglect and violence, saying that: "Matthew's story is filled with examples of decision based on social workers' self interest, Verna Vaudreuil's interest or the ministry's interest rather than Matthew's interest. If those decisions had been child centred, it is likely that Matthew would have been taken into care, either by apprehension or by agreement" (Gove 1995: 49). Janet Griffiths (1998), in a feminist analysis of the Gove Inquiry pointed out how this child-centred approach resulted in many omissions in investigation and commentary. These related to Mrs. Vaudreuil's brain injury, her physical and sexual abuse at the hands of her father and foster parents, any treatment she received for sexual abuse and any interventions she received for healing from the impact of 17 moves and placement with 11 foster families before reaching the age of majority. "The inquiry did not address the issues that Verna's needs had not been met, either when she was a child in care or as an adult" (Griffiths 1998: 16). Griffiths (1998: 16) goes on to describe how the "Ministry failed to meet Verna's needs so that she could in turn meet the needs of her son. She was not asked what services she wanted. She was rarely included in planning for services meant to meet her needs. And she was frequently turned down when she asked for specific services, without having her need for these services explored, on the basis that she was trying to abuse the system." In this analysis of policy, this blindness to the potential positive role of support for mothers under duress, as a pillar of policy aimed at improving children's health and safety, continues to be evident.

The Gove Inquiry (1995: 43) found the child protection system to be "fundamentally flawed" and recommended the system be built on two foundational principles of being child centred and co-ordinated. The Inquiry, in fact, made the specific recommendation that the opening words of the then newly enacted *Child, Family and Community Service Act* (1996) be changed to include the wording "the safety and well-being of the child shall be the paramount considerations" (Gove 1995: 68) and be further guided by the principles of universality, responsiveness, accountability and efficiency. The Inquiry recommended

that child protection social workers complete a comprehensive risk assessment when investigating a child protection report. “The assessment should not give ‘strengths’ of the parent disproportionate weight” (Gove 1995: 56). In fact, this approach catalyzed the practice of a risk-based rather than a strength-based analysis that has given little weight to the strengths and potential of mothers, nor to the range of supports that might bring forth, solidify and enhance this potential.

The public discourse related to substance-using mothers has been, on the whole, judgmental, punitive and unsympathetic. Closely related to this is how substance-using pregnant women and mothers have fared in legislative and other policy arenas. Policy initiatives affecting mothers with substance use problems have often been documented and widely publicized. Numerous journal articles (e.g., McCormack 1999; Chavkin and Breitbart 1997; Gustavsson and MacEachron 1997; Roberts 1991), policy-related reports (e.g., Rutman et al. 2000; Young et al. 1998) and books (e.g., Boyd 1999, Humphries 1998; Gomez 1999) have been written on the impact of policy on substance-using mothers. In brief, this literature documents:

- how policy is based on “anger and blame directed at women who use alcohol and drugs” (Chavkin and Breitbart 1997: 1201);
- how this policy is “fraught with contradictions” that help “perpetuate actions that can harm women and children” (Gustavsson and MacEachron 1997: 673); and
- how the “neglect and consequent lack of appropriate treatment” (Chavkin and Breitbart 1997: 1201) of mothers flows from this policy.

As researchers on women-centred care for mothers with substance-use problems, we had come to similar conclusions from our own experience. In research on barriers to treatment for pregnant and parenting women in British Columbia (Poole and Isaac 2001), we found that policy relating to child apprehension was a key barrier for women needing to access treatment for substance-use problems, often extending by years the period of lack of care for themselves and their families. In our research profiling women accessing intensive treatment at the Aurora Centre² in Vancouver, we found that child custody issues were the key legal problems facing women in treatment. A third of mothers in treatment report experiencing current custody problems and over half have given up or lost custody of a child. Only a small portion of women coming to treatment report having current legal problems other than custody-related issues, and few (13 percent) rate the impact of these problems as serious, or needing attention as part of their recovery planning (Poole 2001). In evaluating programming designed to serve very high-risk pregnant and parenting women in the Downtown Eastside of Vancouver (the area of the city with the highest density of poverty), we found two key components of the Sheway³ project’s success related to countering the negative impact of policy on substance-using mothers. These two components were the welcoming, nurturing, self-determining approach of the service when pregnant women came for help that countered the fears of judgment and loss of control over their care, and the support of social workers to help mothers meet child protection standards rather than going underground to avoid apprehension of infants at birth (Poole 2000).

Also, as documented in the preceding chapter, the public discourse on violence against women has emphasized single acts of extreme violence. This is not reflective of the epidemic of patterned and chronic violence Canadian women experience. The public discourse also emphasizes collusion by women with the abuse they or their children experience, and focusses on women who abuse their children in disproportion to the incidence and prevalence of the problem. Women who have experienced relationship violence have encountered similar discourses in the enactment of policy and legislation, particularly in the courts.

The impact of policy discourse on mothers who experience relationship violence has been at the centre of concern for women, feminists and women's advocates for the last five years. In 1997, the federal government introduced the *Federal Child Support Guidelines* (Dept. of Justice 1997a) under the *Divorce Act* with the intention of helping "provincial and territorial enforcement agencies ensure that family support obligations are respected" (Dept. of Justice 1997b). As Cross (2001: 6) noted, "fathers' rights groups were roundly opposed to the child support changes as these would require them to pay at a more appropriate (i.e. higher) level and strict enforcement measures for non-payers would be put in place." The reaction from small groups of men was vocal and focussed on the issue of men being required to pay child support as non-custodial parents, but not being able to obtain custody. "Fathers' rights" groups organized and extended to "men's rights" and "grandparents rights," apparently in opposition to women. This reaction was sufficient to prompt the government to appoint the House-Senate Special Joint Committee on Child Custody and Access. This Committee held national hearings throughout early 1998, and tabled its report, entitled *For the Sake of the Children*, later that year.

Scholars, activists and feminists vigorously criticized the consultation process and subsequent report. Criticisms included the charge that both were gender biased, pandered to the fathers' rights agenda, and did not take into account women's inequality, or violence against women and children (BC Institute Against Family Violence 2001; Ontario Women's Network on Custody and Access 2001; Vancouver Ad Hoc Custody and Access Coalition and Battered Women's Support Services 2001). These criticisms echoed earlier critiques and analyses of similar legislation in other jurisdictions (Bain et al. 2000; Kelly 1997; Magen 1999). Rather than act on this contentious report, Federal Justice Minister Anne McLellan established yet another series of consultations, this time provincial. A consultation document (Dept. of Justice 2001) was developed to facilitate this process, informed by *For the Sake of the Children* (House-Senate Special Joint Committee 1998). It proposed a series of reforms to the *Divorce Act* and family law on custody and access of children, including definition of the roles and responsibilities of parents after separation or divorce, measures to ensure parents meet their access responsibilities and specific criteria for interpreting the best interests of children. The document treated family violence and high conflict relationships as different phenomena, and approaches to each were proposed. It emphasized that "children and youth benefit from the opportunity to develop and maintain meaningful relationships with both parents" (Dept. of Justice 2001: 4), a principle congruent with, and extending the principle of, "maximum contact" which was already enshrined in the *Divorce Act*.

The consultations were held during the late spring and summer of 2001, with the Minister required to report back to Parliament by May 2002. Thus, although the *Divorce Act* remains

in effect, its present form is scheduled for change. Indeed, during our field work described in Chapter 4, we heard the language of *For the Sake of the Children* (e.g., “shared parenting,” “parental responsibility”) used routinely throughout court proceedings. Although actual changes to the *Divorce Act* have not been made at the time of this writing, an underlying discourse, which is our concern, is seeping through lay and professional spheres — a discourse of gender neutrality and “rights.”

In the case of women diagnosed with a mental illness who are pregnant or who are mothers, the public discourse is infused with stereotypes about mental illness, and reflects the fear and stigma surrounding women with mental health problems. Ignorance about mental illness and beliefs about what constitutes “competent” and “appropriate” mothering are also clearly evident in public policy discourses. For example, the right of mentally ill women to have children is implicitly challenged in policy discourse primarily through the absence of policy that addresses the specific needs of mothers. Mental health practitioners often view mentally ill women as having limited capacity to live full lives, and a belief that they will not have children still prevails. If these women do have children, they are often confronted with attitudes and opinions that suggest they do not have the right to have custody of their children because of their illness. In the context of adult mental health services, informants indicated that one of the biggest challenges was getting mental health practitioners to recognize that women with a mental illness are, and can be, mothers. Further, the biomedical focus of treatment planning, and the fragmentation of services to women and their children reinforces the invisibility of women with mental illness who are mothers, and contributes to a context where women’s needs are not seen as integrally connected to those of their children.

Exacerbating this is a mental health service system that has formally dedicated its resources to people with “serious mental illness” (BCMHS 1998). This priority is relevant because it determines who gets access to publicly funded services and supports. In theory, access to care is based on the degree of incapacity a person suffers. In practice, the lack of resources means practitioners often make determinations about who gets access based on diagnostic criteria. Research suggests this practice may result in a gender bias with respect to accessing services whereby some groups of women with particular diagnoses are not receiving adequate support (Morrow and Chappell 1999). The degree to which this affects women with a mental illness who are pregnant or mothers is not yet fully known. However, it is evident that a system that functions primarily in reaction to the most serious problems engages in very little preventive support work. As will become clear, preventive support work is critical for women who are mothering under the conditions of mental illness.

Unlike the two preceding cases, very little research has been conducted that specifically examines policy discourse and its impact on women with a mental illness who are pregnant or who are mothers. In fact, the invisibility of the mothering role of these women in policy is one of the key problems in current practice in both the child welfare and mental health fields.

Approach to Policy Analysis

With this substantive body of literature and experience behind us, we examined key provincial and federal legislative and other policy documents to illuminate policy as it affects mothers. The *Divorce Act*, its adjunct, the *Federal Child Support Guidelines*, and its BC provincial adjunct, the *Family Relations Act; The Child, Family and Community Service Act*, and its related practice documents, *The Risk Assessment Model for Child Protection* (BCMCF 1996), and the *Protocol Framework and Working Guidelines Between Child Protection and Addiction Services* (BCMCF 1999); the *Review of the Circumstances Surrounding the Death of Mavis Flanders* (Morton 1997); *The Mental Health Act, Revitalizing and Rebalancing British Columbia's Mental Health System: The 1998 Mental Health Plan* (BCMHC 1998), and its related tools *Foundations for Reform: The Mental Health Policy Framework and Key Planning Tools* (BCMHC 2000a), and the *British Columbia Mental Health Reform Best Practices* (BCMHC 2000a) guidelines. These documents are examples of policy discourse at the macro (legislation), meso (policy) and micro (practice) levels with respect to women who are pregnant or mothers and use substances, experience violence and/or have mental health problems. A summary of the content of these policy documents is captured below.

In each province and territory in Canada a mix of federal and provincial legislation and policy affects pregnant women and mothers with substance use, mental health and violence-related problems. To make possible an in-depth analysis of the themes inherent in such legislation and policy, we limited our focus to provincial legislation in place in British Columbia. Our contact with other provinces, through key informant interviews, specialized policy-related listservs⁴, media reports and published articles, indicates the issues, trends and themes identified in British Columbia policy are similar to those arising in other jurisdictions.

A further limitation to the scope of our examination of policy discourse on mothering and experience of violence, mental illness and substance use is of necessity, the time period of the project. Policy implemented, or in development, after the summer of 2001 could not be taken into consideration. Nor could attention be paid beyond the immediate history of this policy, as described above.

While bounded by these limitations of time and provincial scope, a rich and substantive view of policy trends emerge that, together with the media analysis in Chapter 2 and views of mothers with lived experience of the impact of policy in Chapter 4, have shaped the recommendations for a mother-centred policy framework in the final chapter of this report.

The documents were analysed through a careful reading by each team with respect to how each document portrays and affects women who are mothers and use illicit substances, have mental illnesses or experience relationship abuse. These analyses were then compared and contrasted across the three cases.

The document analysis was augmented by interviews with key informants. The informants included nine policy analysts within government in British Columbia who were knowledgeable

on the implementation of B.C. government legislation and policy, 14 policy analysts from governments, commissions and provincial agencies across Canada knowledgeable on substance use policy implementation and three practising lawyers with extensive expertise in the implementation of custody and access legislation.

Documents Chosen to Illuminate Policy Structures in British Columbia that Affect Mothers

The Child, Family and Community Service Act

The Child, Family and Community Service Act is the legislation which mandates child protection services in British Columbia. Despite the title of the Act, it is clearly focussed on the well-being of children, rather than on the well-being of families and communities. Indeed the Ministry of Children and Families Web site <<http://www.mcf.gov.bc.ca/legislation.htm>> announces that the Act “[p]rovides for policies, programs and services for the safety and well-being of children.”

The Act outlines what is meant by the best interests of the child, which is the key in most enactments of this policy. The Act states:

4 (1) Where there is a reference in this *Act* to the best interests of a child, all relevant factors must be considered in determining the child’s best interests, including for example:

- (a) the child’s safety;
- (b) the child’s physical and emotional needs and level of development;
- (c) the importance of continuity in the child’s care;

- (d) the quality of the relationship the child has with a parent or other person and the effect of maintaining that relationship;
- (e) the child’s cultural, racial, linguistic and religious heritage;
- (f) the child’s views;
- (g) the effect on the child if there is delay in making a decision.

(2) If the child is an Aboriginal child, the importance of preserving the child’s cultural identity must be considered in determining the child’s best interests.

The elements of the *Act* that are most relevant to mothers who are battered by their partners, who use substances or have mental health problems include the sections covering when the child requires protection, what constitutes emotional harm and the duty to report child abuse. Also of importance are the sections governing assessment of the child’s need for protection, how a child is protected and the various court orders that are available for use in conjunction with the Act.

The Risk Assessment Model for Child Protection and the BC Handbook on Child Abuse and Neglect

The *Risk Assessment Model* was put in place in 1996 to standardize and improve the approach taken by child protection workers when following up on reports of possible need for child protection. Specifically it promotes “a structured, thorough and objective assessment of the risk of future harm to a child” (BCMCF 1996: 2).

A related document is the *B.C. Handbook on Child Abuse and Neglect*, intended for service providers who work regularly with children and/or families. It summarizes the key principles, laws and policies dealing with the abuse and neglect of children. Both are grounded in *The Child, Family and Community Service Act*, the legislative authority for the Ministry’s Child Protection Services.

Divorce Act

In Canada, family law is an area of joint federal, provincial and territorial responsibility. The federal and provincial governments have specific constitutional powers with respect to family law, and the territorial governments have specific responsibilities under their original acts. The federal *Divorce Act* generally applies to issues of child custody, access and support when parents divorce. Provincial and territorial laws apply regarding child custody, and access and support when unmarried parents separate or when

married parents separate and do not pursue a divorce, as well as to some issues in divorce proceedings specific to the province. The *Federal Child Support Guidelines*, set out the amount of money a parent has to pay in child support based on income. In British Columbia, the *Family Maintenance Enforcement Act* sets out a program to pursue enforcement of maintenance orders. These acts work together with *Divorce Act* provisions regarding spousal and child support.

Family Relations Act

The Family Relations Act is the B.C. act that covers all custody and access issues not resulting from divorce. This includes child custody and access issues between parents who are not married, or between

married parents who are not divorcing, and issues specific to the province (e.g., appointment of a family advocate, special conditions relating to the Nisga’a treaty).

Mental Health Act

The *Mental Health Act* (1996 revised, 1998) governs the broader administration of the mental health system (e.g., the establishment and licensing of facilities and services, the transfer of patients between provincial facilities and liability issues) and the ways in which persons with a mental illness are assessed and processed in the health system. Of particular importance for our study are the elements

of the Act that detail when a person can be involuntarily admitted to a mental health care facility. The *Mental Health Act* is significant because it overrides all other legislation (e.g., guardianship legislation, Ulysses agreements, substitute decision-making agreements). The Act also governs the review process which mentally ill people are entitled to once they have been committed.

Revitalizing and Rebalancing British Columbia's Mental Health System: The 1998 Mental Health Plan

The *Mental Health Plan* (BCMh 1998) is the provincial government's most recent plan for implementing services in British Columbia. The plan outlines the overarching philosophy and goals of the British Columbia mental health system,

identifies a policy directive to focus on the needs of the most seriously mentally ill, and makes suggestions about what kinds of supports and services are needed in the province. The plan identifies women as a specific population requiring attention.

Foundations for Reform: The Mental Health Policy Framework and Key Planning Tools (BCMh 2000)

This document is a follow-up to the 1998 *Mental Health Plan*. It provides a policy framework and the planning tools necessary to implement the plan. Within this document, the Ministry indicates that to improve the appropriateness of mental health services, health authorities should "ensure all services are sensitive to gender and cultural diversity" (BCMh 2000b: 10).

In addition to this document, the Ministry of Health Services also appointed seven working groups (i.e., housing, assertive community treatment, crisis response/emergency services, inpatient/outpatient services, consumer involvement and initiatives, family support and involvement, and psychosocial rehabilitation and recovery) to develop best practice guidelines for service providers. The resulting document is called, *British Columbia Mental Health Reform Best Practices* (BCMh 2000a).

The Protocol Framework and Working Guidelines Between Child Protection and Addiction Services

The *Protocol Framework* (BCMCF 1999) was developed in 1999 by the Provincial Women's Committee of the Addictions Services Branch, B.C. Ministry for Children and Families. The *Protocol Framework* attempts, in a succinct manner, to clarify the roles of, and promote respectful working relationships between child protection and addiction treatment

workers. In the 18-page *Protocol Framework*, the philosophies underlying treatment and protection work are contrasted, perspectives on key approaches to the work compared, the legal framework presented, the responsibilities of both types of workers laid out, practical implementation strategies outlined and key informational documents appended.

Review of the Circumstances Surrounding the Death of Mavis Flanders

This review (Morton 1997), prepared by the Children's Commissioner for the Attorney General of British Columbia describes the highest profile case in British Columbia of a substance-using mother on whom the weight of child protection policy has come to bear. The review reveals the particular policies that come into play when a mother who uses illicit substances

comes under the scrutiny of child protection services and the criteria used to judge the effectiveness of enacted policies. The four pages of recommendations in the 55-page review focus on recommended improvements in the approach of the child protection system and the need for communication and co-operation between child protection and other services.

Discussion

Underlying the policy documents are particular ideas about families, women, children and the value of each, supported by language reflecting particular understandings of gender, race and class. The *Divorce Act* lays out a fundamental premise that parents are married heterosexual couples and that marriage is to be preserved if possible. In fact, section 9 of the *Divorce Act* is devoted to charging all barristers, solicitors, lawyers and advocates with the duty to advise “the spouse” that the object of the Act is reconciliation, and to discuss reconciliation, to the point of requiring a written statement certifying compliance with these directives. Throughout this and other policy documents is an overarching value for children. The best interests of the child are enshrined in the *Divorce Act*, the *Family Relations Act* and the *Child, Family and Community Service Act* and their related documents. In each, the value of the child is foregrounded and is largely separated from other people in the child’s life, except to the extent that others are limited in their capacity to carry out their duty as parents or that they represent a risk to the child.

Prevention of harm to children through assessment of risk, using an evidence-based approach, is a central theme. Implicit throughout these documents also is the theme of competing rights — between parents, in the case of child custody and access, and between the parent and child in the case of child protection. Notably, in the case of child protection policy, a child’s entitlement “to be protected from abuse, neglect, and harm or threat of harm” (*Child, Family and Community Service Act*, section 1.2) is achieved in practice by imposing limitations on the mother, rather than by enhancing the mother’s health, safety and capacity to parent.

Gender, Race and Class

The use of language that obscures differences related to gender, race and class is apparent in each of the policies examined. The British Columbia *Child, Family and Community Service Act* (1996) and the *Risk Assessment Model* favour gender-neutral terms, such as “parents” and “parenting,” which belie the fact that it is primarily women who are assessed under these policies and women who are seen as responsible for the care and well-being of children. In the *Divorce Act*, the use of the gender-neutral term “spouse” obscures gender differences and is founded on an assumption of heterosexuality.⁵ Indeed, spouse is defined as “either of a man or a woman who are married to each other.” Although the B.C. *Family Relations Act* expands the notion of family to specify that “the marriage-like relationship may be between persons of the same gender” (section 1.1), the document subsequently refers only to “man and woman” and the “mother and father” of the child, enshrining heterosexuality, but not attending to gender differences.

The language in the *Mental Health Act* is also noteworthy. “Mother” is defined as “the wife of the father of a person with a mental disorder” (CMHA 1999: 2). While attempting to include non-biological parents, the definition excludes same-sex or common-law spouses. Further, nowhere in the Act is there a discussion of mentally ill women as mothers and, therefore, there are no specific provisions for these women. The policy documents examined make no mention of race, ethnicity, culture or class, except in superficial attention to the preservation of “culture” and the naming of particular racialized groups. The *Mental Health Act* makes no mention of how race, ethnicity, culture or class might be relevant to determinations of

a person's capacity, despite a large body of literature that documents that mental illness is understood in different ways in non-Euro-Canadian cultures. Neither the *Divorce Act* nor the *Family Relations Act* make mention of these issues, although the Nisga'a First Nation negotiated a section to be inserted in the latter that provides for the Nisga'a Lisims Government to be notified of proceedings, and its laws to be considered.

One apparent exception to this pattern of neglect is *The Child, Family and Community Service Act*. This Act accommodates the Nisga'a Final Agreement in the same manner as the *Family Relations Act*. It further provides that notice of hearings be extended to "designated representatives" of an "Indian Band," if the child is "registered or entitled to be registered as a member of an Indian band" (section 38.1.c). Further, interim plans of care for the child are required to include, in the case of an Aboriginal child, "the steps to be taken to preserve the child's Aboriginal identity" (section 35.1.b). If the child is an Aboriginal child, the director (meaning those implementing the Act) must give priority to placing the child "with the child's extended family or within the child's Aboriginal cultural community [or] with another Aboriginal family." While these measures are important, they are hard won concessions that reflect the appalling history of state apprehension of Aboriginal children. This Act and its attendant practice documents specify the intention to preserve Aboriginal cultural identity, without measures to address the institutionalized racism that undermines these very intentions, and without concern for the cultural identity of other racialized groups. For example the *Risk Assessment Model for Child Protection* (BCMCF 1996) mentions "culture" as a factor to be examined in the assessment of children, but with no underlying analysis of the racism and classism that historically has disproportionately separated Aboriginal children from their mothers and fathers.

The 1998 British Columbia *Mental Health Plan* (BCMh 1998) and the 2000 follow-up document to the plan, *Foundations for Reform: The Mental Health Policy Framework and Key Planning Tools*, are somewhat more progressive. The plan contains a section on women and a section on culture, both of which make a case that these populations have specific mental health needs that require attention. The policy framework indicates that to improve the appropriateness of mental health services, health authorities should "ensure all services are sensitive to gender and cultural diversity" (BCMh 2000b: 10). However, neither document contains any detailed social analysis that would allow a deeper understanding of how social inequities, like sexism, racism and colonialism, affect mental health.

The language of these acts obscures real differences. The lack of meaningful attention to racism, heterosexism and classism obscures difference and perpetuates inequities. Particularly of note is the way in which gender-neutral language obscures the gender inequality that characterizes Canada. While women are known to comprise the majority of those adults living in poverty, in the policy documents we examined, the material well-being of women, and the link between child poverty and women's poverty is largely overlooked. Especially pernicious for women is the way policies have created a financial incentive to obtain custody. Specifically, the *Federal Child Support Guidelines* have formalized the amounts to be paid to custodial parents and have linked the amount of custody to payment of child support, creating a financial incentive for custody. Section 9 of the guidelines regarding shared custody stipulates:

where a spouse exercises a right of access to, or has physical custody of, a child for not less than 40 per cent of the time over the course of a year, the amount of the child support order must be determined by taking into account (a) the amounts set out in the applicable tables for each of the spouses; (b) the increased costs of shared custody arrangements; and (c) the conditions, means, needs and other circumstances of each spouse and of any child for whom support is sought.

In practice, obtaining at least 40 percent custody on paper (this is not necessarily reflective of where a child actually lives and is cared for) means at least a reduction in child support payments, if not absolution of the requirement to pay, depending on the income of each party. Thus, there is a financial incentive to obtain 40 percent custody. Despite the policy intention to improve child maintenance, awards to women for child support are being undermined. At the same time, while the *Divorce Act* (section 15.7) specifies that the court “recognize any economic advantages or disadvantages to the spouses arising from the marriage or its breakdown [and] relieve any economic hardship of the spouses arising from the breakdown of the marriage,” in reality awards for spousal support are increasingly rare. Women continue to provide the majority of care for children, and continue to be increasingly impoverished in the process.

Rights

Rights discourses pervade both the policies and practices that govern responses to women who are pregnant and mothers with substance use, mental health and violence-related problems. This is evident in the key policy documents related to child protection where the rights of children and mothers are placed in opposition to each other in a system that is reluctant to acknowledge the ways in which this fragments the relationship between a mother and her child. A rights discourse is also embedded in mental health law and pervades discussions about the degree to which people with mental illness should have the right to make decisions about their lives and their course of treatment. Finally, fathers’ rights have overshadowed and deflected concern for the plight of women who experience violence as the debates regarding child custody and access have pitted fathers’ rights against mothers’ rights, and aligned fathers’ rights with the best interests of children.

Central to the rights discourse is the nearly incontrovertible notion of the best interests of the child. This concept frequently is ill defined, and often treats children as independent of their relationships with others. The best interests of the child are fundamental to the *Divorce Act*, yet are not defined except to specify that “the court shall take into consideration only the best interests of the child of the marriage as determined by reference to the condition, means, needs and other circumstances of the child” (section 16.8). In the B.C. *Family Relations Act*, the “best interests of the child are paramount” (section 24.1) and are defined as:

the health and emotional well being of the child including any special needs for care and treatment; (b) if appropriate, the views of the child; (c) the love, affection and similar ties that exist between the child and other persons; (d) education and training for the child; (e) the capacity of each person to whom

guardianship, custody or access rights and duties may be granted to exercise those rights and duties adequately (section 24.1).

These definitions leave the interpretation of the best interests of the child open to gender, race and class biases with, as will be shown, profound consequences for women's experiences. The centrality of the child, decontextualized from his or her relationships serves to pit the "rights" of the child against the "rights" of others.

The British Columbia *Child, Family and Community Service Act* has the most comprehensive definition of the best interests of the child: continuity in the child's care, the quality of the relationship the child has with a parent or other person, and the effect of maintaining that relationship, and consideration of the child's cultural, racial, linguistic and religious heritage. In the case of an Aboriginal child, the child's cultural identity, is to be taken into account. However, in this Act and policy documents such as the *Risk Assessment Model for Child Protection* (BCMCF 1996) that are used to implement the Act, children's rights are given priority through mechanisms that assess a woman's ability to parent by using the standard of "the best interests of the child." The child's interests must come first, and are treated as though they can be determined in isolation from the interests of their mothers. No mention is made of women's rights to their children or, more specifically, their rights with respect to treatment and support when they experience violence, mental health or substance use problems, or other problems that bring them under the heightened surveillance of the state with respect to their children.

For mothers with mental illness, several policy arenas converge in determining system responses. The first are those sets of interventions governed by the British Columbia *Child, Family and Community Service Act* (1996) and the *Risk Assessment Model for Child Protection* (BCMCF 1996), and the second are those interventions governed by the *Mental Health Act* (1996 revised, 1998). The underlying thread is that both are concerned with assessing risk, and both have the ability to curtail the rights of women. Determinations of risk and decisions about rights are made by assessing evidence generally in the form of expert opinion about the women's mental state and her parenting ability. What is striking is that both mental health law and policy documents related to child protection are constructed primarily as reactive measures rather than as proactive measures that might assist in preventing the need for involuntary committals in one case, and child protection and apprehension in the other.

The rights of mothers with substance use problems frequently compete with those of their fetuses/children. In the high profile Supreme Court case involving Ms. G, discussed in Chapter 1, the right of pregnant substance-using mothers to not be forced by child protection authorities into mandatory detoxification/confinement during pregnancy to protect the "rights" of the fetus was confirmed in this country. The issues involved in this case were capably analysed by researchers associated with the University of Victoria in a document entitled *Substance Use and Pregnancy: Conceiving Women in the Policy-Making Process* (Rutman et al. 2000). The key issues raised in the analysis of this case reinforce this current policy analysis. The authors noted the need for three key ideological "paradigm shifts": in the way substance use is treated and prevented (toward a harm-reduction/health promotion philosophy), in the mandate of child welfare (toward supporting families, not only protecting children) and

in the way child apprehension is viewed (toward making social service systems accountable, not blaming mothers). In this report, the views of Aboriginal women are well documented on how policy is disproportionately brought to bear on Aboriginal women who are pregnant, and how the conditions of Aboriginal women's lives make them more vulnerable to substance misuse. As with the Protocol document described below, they highlight concrete ways in which "disconnections between policies" and/or "incongruities in the ideologies that underpin policies" (Rutman et al. 2000: iv) could be changed/integrated so a common end goal of healthy mothers, children and families is possible.

The rights of pregnant women who use substances have been under siege in the United States. New legislative proposals on the subject of drug-using women appear each year throughout the country at both the federal and state levels (Paltrow et al. 2000: 10). In South Carolina, for example, actions against pregnant women have been particularly severe, and have included convicting Regina McKnight, a mother who used crack during pregnancy, of homicide (Maginnis 2001). In this and other states, criminal charges and special civil provisions have resulted in incarcerations of pregnant women for their substance use. Eighteen states have amended their civil child welfare laws to address the subject of a woman's drug use during pregnancy. This use triggers an evaluation of parenting ability, which is used as a basis for presuming neglect or is a factor to be considered in terminating parental rights. (Paltrow 2000: 1). In some states that have not amended their laws, government officials have, by regulation or practice, extended existing civil child abuse laws to pregnant women despite the lack of legislative intent or specific authority to do so (Paltrow 2000: 2). These approaches raise a host of ethical and legal issues relating to informed consent, bodily integrity and confidentiality of medical treatment. These policies also run counter to the rights of women to treatment for substance-use problems and a range of other health and social supports that would support their role as parents. The problems inherent in American drug policy, as it affects pregnant and parenting women, has prompted the establishment by lawyers with the Women's Law Project of the National Advocates for Pregnant Women (NAPW). "The NAPW is dedicated to protecting the rights of pregnant and parenting women and their children. NAPW seeks to ensure that women are not punished for pregnancy or addiction during pregnancy and that families are not needlessly separated based on medical and public health misinformation." (NAPW 2001).

While the prosecutions in the United States are more visible, in Canada (as seen in the media cases in Chapter 2 and in other instances not covered by our selected time frame), mothers have been charged with a range of legal infractions and jailed for substance use during pregnancy (Poole 2001). Based on an approach taken in several states in the United States, Alberta is contemplating an approach to child welfare cases that could include jailing drug- and alcohol-addicted parents (even if they are not facing criminal charges) and enforcing court-ordered treatment (Jeffs 2001). It is of note that, in keeping with the overall "harm reduction" strategies adopted by many European countries, European approaches to the capacity of substance-using parents are, in some cases, strikingly different. An example is the policy guideline published in 1997 by the Standing Conference on Drug Abuse (SCODA 1997: 1) associated with the Local Government Associations in London, Scotland and Wales. In this guideline, it is considered that:

[p]arents with drug problems should be treated in the same way as other parents whose personal difficulties interfere with or lessen their ability to provide good parenting. Families with a drug-using parent need to be able to ask for advice and help from appropriate agencies and to work together with them to safeguard children. It should be recognized that by agencies dealing with drug using parents that the children are not at risk of abuse, solely by virtue of the fact that the parent is a drug user.

The rhetoric of rights has had particularly grave consequences for women who experience violence. In the context of changes to the Canadian *Divorce Act*, and similar initiatives in many countries, fathers' rights groups have organized effectively. Quite obviously, divorces are unlikely to be harmonious in relationships in which the man has abused the woman. Thus, men who are abusive are likely to have a particular vested interest in how contentious divorces are treated in the courts. At issue is the father's right to access children. In other countries, such as England and Australia, fathers' rights to access have been presumed to be in the best interests of children, with the consequence that mothers and children were expected to participate in contact arrangements, despite the violence or abuse perpetrated by non-resident fathers (Kaganas and Sclater 2000; Rhoades et al. 2000; Smart and Neale 1997).

At present, there are over 5,000 "fathers' rights" Web sites offering strategies and support to men, particularly on how to fight charges of violence against wives and child abuse, and to reduce or avoid paying spousal or child support. In the rhetoric of these groups, children's interests, enshrined in legislation such as the *Divorce Act*, are linked firmly to a father's right to access to the children without regard to the risk such access may pose for the children or their mother.

Risk

In congruence with public discourse exemplified in Chapter 2, and in congruence with the primacy of concern for children, in the policy documents examined, risk to the child is the primary, if not only, concern. Absent from any of these policy documents is a concern for risk in relation to women or mothers.

Risk is most central in the policies guiding child protection practices, the British Columbia *Child, Family and Community Service Act* (1996) and the *Risk Assessment Model for Child Protection* (BCMCF 1996). In these documents, attention is given to assessing the risk mothers (or other caregivers) pose, or might pose, to a child or children under their care (or in some cases to a fetus). The standard used to determine risk is one that takes the "best interests" of the child as paramount. These best interests are often seen as separate from the interests of the mother, leading to decisions that are often experienced by women and their children as punitive.

The *Risk Assessment Model* was developed to coincide with the development of the *Child, Family and Community Service Act* (and was later revised after the Gove Inquiry). The key concern underlying the development of the model was the need for a more standardized and evidence-based approach to decision making on the part of social workers. A second central

concern, explicitly identified, was that decision making needed to be more child centred and less sympathetic to the parents' needs. As such, the key values underlying the Model are that "the safety and well-being of children are paramount consideration" (BCMCF 1996: 11); that "a structured, thorough and objective assessment of the risk of future harm to a child" (p.10) be done; and that in "the structured approach to risk decision making," "accuracy, consistency, and objectivity" (p.10) be increased. While the stated intent is to strengthen and support clinical judgments, the 30 plus pages of ratings of levels of risk make the Model more a support for technical than clinical judgments.

The document includes a tool and guidelines for doing a comprehensive assessment of risk in 23 areas. Alcohol and drug use [Parental Factor 2, p. 41], mental/emotional ability to care for a child [Parental Factor 6, p. 45] and family violence [Family Influence 1, p. 54] parallel our three areas of mothering under duress. All are risk factors. In fact, alcohol and drug use and family violence are both considered to be "highly correlated" (pp. 41, 45, 54), with the likelihood of future child abuse/neglect. The attempt to quantify risk, to assume a stance of objective rationality, is problematic for all three areas of mothering under duress.

In fact, in child protection practice, the focus often falls on four risk factors: parental history of childhood abuse, parental substance abuse, family violence, and a previous pattern of child abuse or neglect as they "are more highly correlated with threats to a child's safety than other factors. For these factors, the best predictor that harm will reoccur is past history" (Risk, p. 39). In Chapter 4, we see how this focus on past experience of childhood abuse and substance use by mothers obscures the strengths and current actions of mothers, and serves to make the uphill battle for maintaining and regaining custody even more difficult.

For the mental/emotional ability to care for a child (Parental Factor 6), the criteria suggest that any mental illness might place a child at risk. The underlying assumption is that anyone with a mental illness is suspect in terms of ability to care for a child. In this context, even past histories of mental illness diagnosis, including past committals by physicians to mental health facilities, can be used as evidence of inability to care for a child.

There was some evidence in our research to suggest that the *Risk Assessment Model* is sometimes used in conjunction with the *Mental Health Act* for "pre-birth" apprehensions. According to law, a mother's risk to her child can only be assessed after a child is born, but this assessment may occur earlier if another party (e.g., a social worker) identifies the woman as possibly not being able to care for her child, or a psychiatrist testifies that the woman may be a risk to herself or others. In practice, this means a woman's past history of mental illness, or child abuse or neglect may be used to curtail her rights to have custody of future children. This despite the fact that a legal mechanism, the *Representation Agreement Act*, exists, which, if used more frequently and consistently by practitioners, would assist women with mental illness in advance planning for their children if they become ill. For example, under this Act a woman can put together a Ulysses agreement, which allows her to stipulate who should care for her children and to have decision-making rights with respect to her children if she should become incapacitated by mental illness. The use of such a tool could prevent many child apprehensions, which take place as a result of a woman's mental illness. Further, it recognizes that the degree to which a woman's capacity to mother will be

affected by mental illness fluctuates and depends on a variety of factors, such as stress and lack of social supports.

For the alcohol and drug use factor, the risk criteria are strongly worded, suggesting that even occasional substance use (Level 2) can have serious negative effects on parents' behaviour, such as "job absenteeism, constant arguments at home, dangerous driving" and "short-term stupor" impairing parental "childcare performance" (Risk p. 41). The next level of alcohol and drug use risk (Level 3) gives the examples of "danger of losing job, financial problems, spouse threatens to leave" (Risk p. 41) as examples of the impact of substance use with serious social/behavioural consequences. The final level (Level 4) suggests that indicators of drug dependence are "suspected sales and/or manufacture of drugs; abandoning social responsibilities (e.g., unemployed, spouse has left, child is abandoned) or severe behaviour problems (extreme aggression or passivity, no concern for the future, confusion much of the time)" (Risk, p. 41). These indicators are a mix of social and emotional problems that may or may not be indicators of alcohol and drug use and do not, for the most part, focus on the central issue of what impact parental substance use is having on the ability to parent. At the same time, such associations open the door for a child protection worker to blame and punish mothers for circumstances such as their spouse leaving.

This stance toward problem substance use is a common story. Substance use is often a catch-all for a wide range of complex social problems, needing much subtler understanding and intervention. As evident in the media discourse, little understanding or compassion is allotted to the context and actual impact of substance use, nor to the possibility of positive or adaptive intention behind it. Instead, problem substance use is seen as something parents willfully bring on themselves, and as something concrete that, if changed, will improve all manner of other social and health problems in one's life and the lives of those around the substance user.

It is ironic how the professionals interviewed in the course of this research, the mothers involved in the focus groups and the literature in the field all concur on how fraught with contradictions, subjectivity and inconsistency child welfare practice is in relation to mothers who use substances. Without solid guidelines (or training) on assessment of the impact of substance use on mothering, social workers apply widely differing standards from the very specific (any substance use as problematic, as measured by urinalysis) to the very general and ungrounded (poor housekeeping as an indicator of substance dependence).

It is in this context that the *Protocol Framework* was developed in 1999 by the Provincial Women's Committee of the Addictions Services Branch of the British Columbia Ministry for Children and Families. This Committee of women, who are providers of addiction-related services to women and their families, advises the Ministry on the delivery of addiction-related services to women. The *Protocol Framework* represents a unique effort to influence how policy is applied, taken by a women's group working from within government, concerned with the needs of substance-using mothers. In a survey of child welfare policy enactment in other Canadian provinces, no comparable document was discovered. The *Protocol Framework* attempts, in a succinct manner, to clarify the roles

of, and promote respectful working relationships between, child protection and addiction treatment workers. To achieve this end, they contrast the philosophies underlying treatment and protection work, compare the two perspectives on key approaches to the work, present the legal framework, lay out the responsibilities of both types of workers, outline practical implementation strategies and append key informational documents.

This approach of promoting cross-field understanding has also been seen as the basis for more effective work in the United States. In its report to Congress on substance abuse and child protection (DHHS 1999), the Substance Abuse and Mental Health Services Administration (SAMHSA) of the Department of Health and Human Services promoted understanding of the nature, level and complexity of substance use and child maltreatment, the complexity of child and family need and the philosophies of the two fields as fundamental to “collaboration and overcoming barriers to quality service” (p. xi). They too look for practical strategies to improve child and family outcomes.

Violence is treated as a significant risk to children throughout the *Child, Family and Community Service Act*. The guiding principles of the act state that “children are entitled to be protected from abuse, neglect and harm or threat of harm.” Numerous sections are concerned with the sexual abuse, physical or emotional harm that has been, or is likely to be, caused by neglect by the child’s parent or by the parent’s conduct. It is important to note that in this Act there is concern for the safety of others. For example, the Act (section 98.3) provides that the court may grant restraining orders:

if there are reasonable grounds to believe that a person is likely to molest, harass or annoy (a) a caregiver, (b) a person who has custody of a child under a temporary custody order, (c) a director or any person to whom the director has delegated...any or all of the director’s powers, duties or functions, or (d) a person providing residential, educational or other support services to the child or youth.

Notably, these concerns do not extend to the mother of the child, presumably because woman abuse is thought to be dealt with under the criminal justice system.

The emphasis on the child as the primary person at risk is echoed in the attendant policy documents, particularly the *Risk Assessment Model* (p. 11) which is explicitly based on the principle that risk assessment should be child-centred and family focussed. In this document, abuse of the parent as a child is considered as the first factor to consider in estimating the potential risk for future abuse/neglect of children. “Family violence” is defined only in terms of the child as “those situations where the child witnesses serious or repeated physical assault of a parent or other household member” (BCMCF 1996: 28). In fact, the document goes on to say that “children may also be at risk of being physically assaulted if the offender lacks self-control, or if the child attempts to intervene to protect a parent or other household member” (BCMCF 1996: 28). In other words, violence is not of concern as long as the “offender” has sufficient “self-control” to assault only the parent (read mother) and not the child.

It is ironic, given the epidemic proportions of violence against women, that in the policies we examined, violence is only addressed in those concerned with child protection. Although “family violence” is considered in consultation documents related to the proposed changes to the *Divorce Act*, it is only addressed in gender-neutral terms as one of two grounds for divorce. A single statement specifies that breakdown of a marriage is established if “a spouse” has “treated the other spouse with physical or mental cruelty of such a kind as to render intolerable the continued cohabitation of the spouses” (section 8.2.b.ii). There is no link in the *Divorce Act* or *Family Relations Act* to other policies or proceedings, such as those under the *Criminal Code*, which might deal with violence against women or children. Further, as the child-centred principal persists in these acts, violence is relevant only as it affects the child. In the *Divorce Act*, although violence is not particularly mentioned, prior conduct of the parties is only relevant as it affects the child. Section 16(9) states that “the court shall not take into consideration the past conduct of any person unless the conduct is relevant to the ability of that person to act as a parent of a child.” This fosters the common legal requirement to prove that woman abuse has a direct impact on the child (Cahn 1991). This is a critical point for women who have experienced violence, as such violence is only admissible in court if it is deemed to be relevant to the child. Woman abuse, as the experience of women will show, is routinely rendered otherwise irrelevant.

While the construction and prediction of risk dominate the discourse, there is little attention to supportive measures to reduce risk. As was evident in the Vaudreuil case, we found a lack of attention to the systemic responsibility to provide care that would address risk factors, maintain the mother–child relationship and support family reunification. In the *Risk Assessment Model* document, 77 pages are devoted to the assessment of risk, and only five to developing a risk reduction service plan (BCMCF 1996: 79) and only one to re-assessing risk, re-unifying a family and transferring/closing a case (p. 85). With this risk and problem focus, we often found instances where the structure of the system exacerbated the difficulty of finding supportive assistance for mothers. An example in the mental health system was in the housing of child and youth mental health, and adult mental health under two different ministries, and the fact that they function at times almost as two solitudes. Women coming into contact with child protection are there because their parenting ability has come under suspicion. This immediately sets up an atmosphere of distrust rather than support and care. Workers in both ministries indicated that although integrated case management was the preferred way to work with women and their children, during case management meetings, conflicts often arise between the needs of children and the needs of mothers and families. This results in the rights of children being juxtaposed against the rights of women, instead of the needs of women and children being understood as interdependent.

Evidence

Ideas about evidence and what constitutes credible evidence are integral to each document we examined. Throughout the documents, there is a value placed on evidence, particularly evidence regarding the best interests of the child. However, what constitutes this evidence is often not clearly defined or specified.

There is a particular reliance on knowledge that does not come directly from women themselves. Evidence from outside observers, and “expert and professional knowledge is

given precedence. For example, the *Risk Assessment Model* (p. 18) specifies that “reasonable grounds” for investigation should be based on “facts or credible information from direct observations/knowledge” of individuals who contact the Ministry regarding concerns about how a child is being treated. Section 15 of the *Family Relations Act* makes provision for “expert witnesses in family matters.” An expert witness is a person who “has had no previous connection with the parties to the proceeding or to whom each party consents, and is a family counsellor, social worker or other person approved by the court for the purpose” (section 15.1a and b).

It is clear that expert knowledge in the form of psychiatry is often relied on when making determinations of risk. Mosoff (1995) made the point that psychiatric discourse operates to assist the state in proving a child is at risk. The tenets of this discourse are that science is objective (we can predict human behaviour and risk), assessment is a critical starting point for any therapeutic action or treatment, and predictions can be made based on current circumstances.

Of particular importance to women who have experienced relationship violence is the increasingly common practice of requiring a psychological evaluation of children to determine the impact of violence on the child. The psychological evaluation of mothers is also increasingly used in child custody and access cases to undermine her capacity to care for her children. The underlying assumptions in the use of such evidence in cases of mental illness are that we can objectively identify persons with mental disorders, and psychiatric treatments are safe and effective.

While parental mental illness is not explicitly mentioned in the *Child, Family and Community Service Act*, the conditions laid out under which a child can be removed from his or her parents, include instances where mental illness may play a role. For example, among the situations under which protection is needed is the condition that the child is being seriously emotionally harmed (*Risk Assessment Model*, p. 28). Emotional harm is determined by observing the child’s demeanour. Severe anxiety, depression, withdrawal or self-destructive and aggressive behaviour are all signs of serious emotional harm (p. 28). These have all been noted to varying degrees in children who have one or more parents with a mental illness. What is not clear is whether these symptoms arise from the lack of support for mentally ill parents or are learned behaviours directly related to the parent’s mental illness. This raises the question of whether unnecessary apprehensions are being carried out in circumstances where supports to the mother might have helped maintain the mother–child relationship.

In the case of substance-using mothers, the *Review of the Circumstances Surrounding the Death of Mavis Flanders* (Morton 1997) illustrates how policy plays out in individual women’s lives, specifically, how/what evidence is used and who has decision-making authority. This Review, prepared in 1997 by the Children’s Commissioner for the Attorney General of British Columbia, described the highest profile case of a substance-using mother on whom the weight of child protection policy has come to bear. In March 1997, Mavis Flanders, a 40-year-old Aboriginal woman was found dead of a drug overdose in her apartment in the Downtown Eastside of Vancouver. Her 22-month-old son had been alone in the apartment since her death five days before. The report related to the last two years of her life. The circumstances deemed

relevant for focus by the representative of the Children's Commission included insufficient communication among the social workers, alcohol and drug counsellors, community centre workers, contracted homemakers and the physician involved; the lack of specific care goals and plans for Mavis and her child; and the lack of clear, agreed-upon services to be provided by each of the agencies involved. This culminated in a lack of monitoring and support of Mavis' health, growth and ability to parent.

Various themes relating to the lack of authority that mothers have over their lives when under the scrutiny of child protection authorities and the ungrounded nature of evidence used against substance-using mothers are apparent in this Review. As identified throughout this section, the "client" in this child welfare context is the child, not the mother. Accordingly, support of Mavis changed significantly when she had custody of her child and when she did not, and a consistent plan of support for her for parenting, substance-use treatment and other social, economic and health issues that would help her as a mother was not prioritized. The Review makes the recommendation that both child and parent be seen as the client when drug use is involved, yet recommends that only the child be assigned an advocate. Enhancement of the authority of the mother in determining her needs is not recommended. That interventions were in some cases driven by Mavis was seen as indicators of a flawed process. Instead, more rigorous forms of monitoring and surveillance by professionals and other people in a position to support her (such as the housekeeper, counsellor, physician and community centre worker) were advocated. The understanding of substance use and its treatment in the Review is weak and prejudicial, very much lacking an evidential base. Mavis' housekeeping is referred to as an indication of her substance use and grounds for intervention. Her supervision order sets a standard of no use of alcohol, non-prescribed drugs and inhalants, when the specific drugs that Mavis was struggling with (and possible harm-reduction pharmacological supports) are never identified. It is also implied that all drug users are likely to overdose, "that it shouldn't have been a surprise that Mavis died of an overdose...if her history had been known" (p. 47).

In practice, in all three cases of mothering under duress, evidence in the form of "expert" or professional opinion is seen as more substantive than a woman's own knowledge about her circumstances and needs. Far from being "objective" and "scientific," the evidence used to substantiate claims that women were unfit to parent or their children were at risk was often found to be based on prejudicial assumptions associated with substance use, violence and mental illness.

Summary

In this chapter, we have described policy discourse at the macro (legislation), meso (policy statements) and micro (practice) levels in British Columbia with respect to women who are pregnant or mothers, and use substances, experience violence and/or mental health problems. We have seen how policy structures the context for, at worst, the oppression of pregnant women and mothers and, at least, the obfuscation of their needs and strengths. Analysis of the policy discourse served first to provide understanding of the policies as background to understanding their enactment but, more important, provided key ideas toward the goal of this project, that is, the development of a framework for policy analysis. In discussions of the commonalties and differences in legislation, policy and practice across

the three cases of mothering under duress, the research team identified a common approach to policy analysis that was helpful to our discussion and that could be extended to mothers in other situations. We also found efforts to analyse and reframe policy that suggest general strategies for maintaining women's equality rights as an essential element of policy development.

In analysing policy, we found the questions developed by Rutman et al. (2000: 48) in their analysis of the Ms. G case useful. By way of summary, below we describe how each of these questions contributed to our analysis.

It was helpful to examine how problems and solutions were framed in the policies developed and, indeed, to step back to consider how mothers were viewed in the policies. For all three cases, the rights and best interests of children are paramount in policy. The framing of pregnant women/mothers with substance-use problems as self-centred, irresponsible and unsafe (themes found in the cases of the three Canadian women — Verna Vaudreuil, Ms. G and Mavis Flanders — as well as in the American policy examples cited) brings a punitive approach to policy and practice. The impact of substance-using fathers was not made visible. Similarly, the emphasis on the well-being of children and the separation of children's well-being from that of their mothers leads to mothers who experience violence being blamed for staying with their partners and failing to protect their children. Indeed, fathers' rights and their connection to children's rights have overshadowed and deflected concern for mothers who experience violence (Cahn 1991; Wilson 1998). Mothers with a mental illness are least visible as mothers, where a lack of comprehension of the coexistence of illness and mothering, to some extent, protects women from censure, but also leads to an absence of policy that is supportive of their needs as mothers.

It was also useful to identify and question the processes used to identify the problems and solutions. Tragic and specific stories of women's lives, as highlighted in the media, in some cases heavily influenced policy. This reactive foundation to policy generation strengthens the argument for having a framework to analyse policy development and its impact. Approaches that value standardization and attempt to make social issues empirical and objective, using a risk checklist, were also identified. In processes of consultation on policy and, as discussed in the next chapter, in individual court cases of mothers abused by their partners, the experiences of mothers were positioned in competition with the rights of fathers to have access to their children. The criminal acts of fathers toward mothers were not part of the custody and divorce policy arenas.

An examination of who has the opportunity to claim authority (and who does not) was also useful to our analysis. In the child welfare arena, the clinical judgment of professionals becomes secondary to the implementation of the procedures associated with the *Risk Assessment Model*; involvement of parents is preferred but optional; and collateral evidence gathering is encouraged. For mothers experiencing violence and mothers with a mental illness, legal and medical authorities overshadow the authority of mothers to define and control their treatment. For mothers with substance-use problems, authority rests with social workers who may or may not have expertise on understanding and reducing harm associated with substance use. While a reliance on expert knowledge was evident, this expert knowledge was often based

on selected evidence of best practices and assumptions based on positivist and contradictory paradigms.

Our analysis was grounded in the questioning of what, if anything was said about gender, race, class and other determinants of health. In some cases, the legislation and policy did attend to the interests and needs of Aboriginal people, yet punitive measures arising from policy relating to substance use was/is more often enacted against Aboriginal women and other women of colour who use substances during pregnancy and when mothering. Often, the disadvantage of mothers was ignored in policy, resulting in the exacerbation of this disadvantage.

Throughout this questioning, we considered who and what was left out as well as included, and attempted to capture what is known about the unintended consequences of this policy/legislation. Legislation and policy designed to serve the best interests of children has had the unfortunate impact of further polarizing the rights of children and the rights of mothers, weakening the mother-child relationship and failing to bring about the safety and health of either. Too often, policy and procedure designed to facilitate assessment of risk and prevention of harm has pre-empted attention on practical strategies to reduce harm through supporting positive growth and connection for mothers and children. The problems facing mothers become individualized in cases and formalized as between government and women, preventing broader-based conceptualizations, and identification of the potential role of communities in health promotion, prevention and support.

In the course of this analysis and discussion with key informants, action by advocates of women-centred policy, in community organizations, in governmental committees, in academic settings and connected by listservs and Web sites also emerged. These groups also found merit in questioning the values and assumptions behind policy, in providing information and research to inform policy choices, and in promoting discussion and action across disciplines to improve service and promote equality.

4. WOMEN CHALLENGE THE CONTEXT

In this chapter, we trace the translation of formal policy discourse into social practices through women's accounts of their experiences of engaging with the institutions and "systems" that have been set up to "support" and "manage" women with addictions, mental illness or who are abused by their partners. We consider the impact of policy discourses as reflected in the way women speak about themselves and other mothers like them, as well as in how individuals working with these mothers act and speak about policy and mothers. We also explore how the enactment of policy affects women who are struggling to mother under difficult circumstances through the actions of the medical, social services and legal systems. We found that each of the three cases of mothering under duress we investigated is embedded in a web of discourses that are largely, but not fully, shared by the women themselves and the agents of the systems used to manage the situations. In general, this discourse centres on the best interests of the child, often conflicting with or ignoring mothers' interests, which are assumed to be subordinate to those of the child rather than interconnected.

Societal attitudes and assumptions about "normal" mothering become crystallized in policy discourses that, in turn, structure women's experiences of mothering under duress. Social, medical and legal processes that define acceptable behaviour and label some mothers more adequate than others mediate women's experiences. Through an examination of women's accounts of their experiences relating to these various interconnected systems of support and control, we are able to look at the impact of policies on women's everyday lives, and the way policy discourses penetrate everyday discourses to the point that the women themselves, service providers and the public reproduce the perspectives of policy and the media regarding mothers, mothering and the best interests of the child.

This chapter reports on the collection of data in each case study of mothering under duress. We sought evidence of the impact of policy discourses through various qualitative research methods, including individual interviews, focus groups and direct observation.⁶ These different techniques permit us to consider women's experiences as based on their personal accounts, their reflections on their own and other women's experiences and direct observation of women's experiences (through court observation). In addition, we spoke with officials and case workers, who work with women on a regular basis, to understand the things that happen to mothers under circumstances of addiction, mental illness or woman abuse. We also conducted direct observation of court proceedings that involved cases of child custody and access in instances of woman abuse. The overarching question behind these multiple forms of data gathering was: What are women's experiences of policy enactment?

Though we approach the presentation of findings using a common thematic framework, we observed that each set of circumstances was associated with a distinct set of challenges that individual mothers had to experience and negotiate. Thus, we highlight both the commonalities and differences. The impact of policy discourses, as enacted in the everyday lives of mothers with mental illnesses, substance-use problems or suffering from woman abuse, raises important questions about how to incorporate women's voices into policy throughout the policy-making process.

Mothering and Mental Illness

Societal attitudes and widespread myths and stigma surrounding mental illness continue to perpetuate the belief that women with a mental illness are incapable of caring for children. This myth operates alongside the conception that pregnancy and mothering can weaken a woman's mental state and potentially catapult her into illness, invoking the Freudian belief that women's reproductive capacity makes them more vulnerable than men to mental illness (i.e., mothering *is* duress). This sentiment is captured in the professional literature on mothering and mental illness. The birth rate for women with a mental illness is either the same or higher than for the rest of the population (Rudolph et al. 1999). However, rather than being viewed as a normal or healthy experience in a woman's life, motherhood is either a rehabilitative tool or a risk. "Motherhood can present an important rehabilitation opportunity for women with serious mental illness. It can also present a grave hazard to women and to their children" (Mowbray et al. 1995: 10).

That women with a mental illness are seen as a risk to their children is evident in the literature and in practices related to child protection, where women are scrutinized to ensure they do not physically harm or neglect their children. Women with a mental illness are believed to present a physical danger to their children and to damage their children through more insidious mechanisms, such as being emotionally distant or unavailable. White (1996) traced this belief to modern psychoanalytic theory, which posits that childhood maladjustment is caused by the emotions, desires and disappointments of the adults surrounding the child. Mothers are seen to play a particularly powerful role with respect to determining their children's behaviour.

Mothering in the context of mental illness is sometimes seen as a rehabilitative tool. Research suggests women with a mental illness place a high value on parenting, and a woman's ability to maintain custody of her children is often critical to her recovery (Zemenchuk et al. 1995). Experts in the field suggest that assisting mentally ill mothers in maintaining contact with their children increases their self-esteem, provides them with a sense of normalcy and promotes personal growth (Sands 1995; Mowbray et al. 1995).

This dual notion that motherhood can pose a risk to children and also be a rehabilitative tool often places women with a mental illness in a double bind. If a woman appears emotionally distant from her children, she will be seen as harmful. Conversely, if she spends a great deal of time with them, she might be perceived as over-involved (Mowbray et al. 1995). The mothering of women with a mental illness is intensively scrutinized, and behaviours seen as "normal" among other mothers may be pathologized when observed in mothers with a mental illness. The two poles of risk and rehabilitation are rarely accompanied by the recognition that specific supports are needed for women mothering under the added strains of a mental illness.

Parenting is especially challenging for women with severe and chronic mental health problems. For example, while it has been noted that some women with a mental illness experience remission of symptoms during pregnancy, this is not the case for all women. Many of the psychotropic medications that help control women's symptoms are believed to pose a risk to the unborn child, and women are strongly encouraged to modify their treatment regimens once they are known to be pregnant (Mowbray et al. 1995). Women may experience an exacerbation

of symptoms during pregnancy at which time they may be unable to care for themselves or their children. They may even require periodic hospitalization. Women with a mental illness are reported to be more panicked about their pregnancy and delivery (Mowbray et al. 1995); others are reported to become actively psychotic during childbirth. Whether anxiety and psychosis are due to illness, to social pressures (i.e., the fear of child apprehension) or related to past sexual trauma is rarely discussed.

The ideology of motherhood includes the notion that a good mother is both self-reliant and selfless. Mosoff (1997: 237) has pointed out that “ideological demands for autonomy and selflessness create special problems for mothers with psychiatric disabilities because of conflicting requirements of being a ‘good’ mother and a ‘good’ patient,” the latter requiring women to be “introspective” and “self-absorbed.”⁷ White (1996: 69) picked up on this theme, arguing that, for some women, the prospect of being involved in both the mental health system and the child welfare system is somewhat of a “poisoned chalice” in that services promising to offer support often introduce coercion, censure and surveillance. White (1996) demonstrated how the welfare professions play an important role in the social regulation of women with a mental illness.

Statistics on how many women with a mental illness lose custody of their children are difficult to obtain. However, in a preliminary study in Vancouver, British Columbia, researchers found that 62 percent of the women with a mental illness they surveyed had lost custody of their children at some point during their parenting years (Judas et al. 1999). Other studies suggest the fear of child apprehension prevents women from seeking help for serious mental health problems (Morrow and Chappell 1999) and that mentally ill mothers perceive the mental health system as insensitive to their needs (Schwab et al. 1991).

One mechanism for regulating mothers with a mental illness is to assess and quantify their mothering abilities. The rationale behind this approach is that if those with impaired mothering abilities could be appropriately identified, steps could be taken to bolster their mothering, or remove their children from their care. The 1970s and 1980s witnessed the development of a plethora of checklists and measures for assessing mothering. While these measures are purported to provide neutral judgments, they are, without question, value laden and culturally specific (White 1996). Typical items on such measures ask if a mother responds to an infant’s vocalizations, shows an interest in face-to-face contact and encourages age-appropriate development. While there is no evidence to suggest that measures can be used to detect current neglect, or future abuse, this fact is often lost in zealous attempts to protect children (Budd and Holdsworth 1997). Browne’s (1995: 120) position captures the fervent belief in the value of risk assessments especially with respect to cost containment. “As with other problems in child health and development, the risk approach to child maltreatment can be seen as a tool for the flexible and rational distribution of scarce resources and their maximal utilization.” Browne acknowledged that even the best parental screening tools yield a high percentage of “false positives.” The use of clinical language camouflages the real implications of labelling a woman as being a risk to her child. Despite the occasional protestation to the contrary, a consistent assumption underlying this literature is the belief that risk can be assessed, and that parental and child needs can be separated and weighed to determine an appropriate course of action.

A number of studies have identified key risk factors for child maltreatment. Scoring high among these factors are active psychiatric symptoms, untreated mood disorders and active psychotic disorders (Jacobsen and Miller 1997). Welfare professionals are understandably anxious about the mothering capabilities of women when presented with such risk factors, especially in the absence of adequate training regarding mental illness.

Increasingly, courts rely on the opinion of experts, particularly psychologists and psychiatrists, in proceedings related to child custody and access. The power of these professionals is even greater when a woman already has a diagnosis of mental illness (Mosoff 1997). Psychology and psychiatry position themselves in the realm of medicine and science that further fortifies their appeals to objectivity. Mosoff (1997: 231) contended, “the roots of this knowledge evoke both the ‘truth’ of science and the ‘compassion’ of healing, a combination that is extremely persuasive in making decisions about children.” Further, because mothers with a mental illness are so often portrayed as potentially dangerous, the state has an interest in being able to assess accurately and predict risk (Mosoff 1997).

The majority of papers in the field of mental illness and mothering involve professional opinion pieces. From this literature, it is clear women with a diagnosis of mental illness are viewed as a risk to their children. There have been only a handful of studies examining the experiences of mothers with a mental illness. Many women with a mental illness report they are anxious about conceiving for fear of being told they cannot carry the infant to term, or having their child taken away following birth. These studies suggest that women with a diagnosis of mental illness need to work hard from the very beginning to “prove their ability to parent” (Nicholson et al. 1998). Women with a mental illness are also reported to blame themselves for any difficulty they encounter when parenting. Women have difficulty managing the day-to-day strains of parenting and often feel unsupported and extremely stressed (Sands 1995). Women’s experiences with the mental health and child welfare systems remain unexamined. In this study, we look at the experiences of mothers with mental health problems. Our interest is in more fully understanding women’s experiences with the systems purported to offer support.

Methods

We employed a qualitative approach in which we conducted open-ended interviews with mothers who had a diagnosis of mental illness. Additionally, we used available video accounts of women’s experiences.⁸ In both instances, women’s stories were examined for what they had to say about experiences in the mental health and child welfare systems. Caseworkers and other professionals involved in the mental health system referred the women we spoke with in our interviews. We asked the women to tell their stories about mothering and mental illness. For example, women were asked to talk about when they first became mentally ill, the professional agencies they came into contact with, and their experiences with pregnancy, childbirth and mothering. Interviews were tape recorded, and notes were taken concerning major points raised by the women. To supplement these interviews, we spoke with front-line workers involved in providing care for mothers with a mental illness, and policy makers in relevant government ministries. Front-line workers were asked to describe their day-to-day work with mothers with a mental illness, the barriers these women experience in the mental health and child welfare systems, and the programs and services available to them. Front-line workers included social

workers, mental health advocates and one lawyer who represented women with a mental illness in custody and child access legal matters. Provincial policy makers were asked to describe the history of policy development in their area within their ministry and to discuss current policy and tools for assessing women and children.

Findings

One of the most potent means to undermine a person's power and position is to question mental capacity. Individuals with a mental illness are fed overt and covert messages about their inability to function appropriately. The women we spoke to described how their confidence was undermined by those with whom they interacted. Their ability to parent was questioned, their illnesses were viewed as a threat to their children, and they were subjected to constant monitoring and scrutiny. Inevitably, the messages they heard undermined their sense of capacity. All but one of the women we spoke with lost custody of their children. In the following sections, we outline the central themes that arose from our analysis.

Being a case

Women with a mental illness are first and foremost treated as a medical case. To gain access to mental health supports, a woman with a mental illness has to have a case file opened. Once she is entered into the system, she becomes a case that must be managed and monitored. All the support she receives is allotted on the basis of her being able to demonstrate she is unable to manage and requires help. If she has a child, additional attention is directed her way. Not only is she a case in the mental health system, she often becomes involved in the child welfare system. Her child, if deemed to be at risk, is considered to be a separate case and is managed by a separate worker from a separate government ministry. This focus on the woman as a *case* sets up a dynamic in which the system is problem focussed (rather than solution and support oriented), and women are encouraged to comply with workers.

The importance of context

Those working in the child welfare system are perceived to lack an understanding of mental health issues. The women we interviewed indicated those professionals who interacted with them about parenting had little understanding of what they were experiencing. Case workers tended to focus on specific issues, and did not understand the complexities of their lives, as Karen⁹ indicated.

I don't feel I had any understanding...no one to listen to what my issues really were. They only zeroed in on one piece of something but they never saw the whole picture. But if they had seen the whole picture, I think they probably would have had a different approach to how they treated me.

The front-line workers we spoke with confessed that the majority of social workers in the field have little or no understanding of mental illness. The care they provide is often based on their own personal understanding of mental illness, an understanding that is undoubtedly shaped by popular beliefs. Further, there was general agreement among our informants that most social workers are not adequately trained to assess family situations where one or both parents have a mental illness.

This lack of understanding extends to children. A child therapist indicated that social workers often jump to conclusions that children with a mentally ill parent are ill themselves. Oftentimes, they are observing children exhibiting depression and oppositional behaviour related to the stress of living with an ill parent. These behaviours usually change when the child begins to receive appropriate supports.

Our informants indicated that mental health practitioners in the Ministry of Health, who work exclusively with adults, rarely take into account women's parenting abilities and the impact that mothering might have on their illness. This gap has recently been recognized in British Columbia, and guidelines are being written to assist professionals in more effectively working with families where one or both parents have a mental illness. Additionally, the Ministry is also planning to adopt best practice guidelines on how best to assist pregnant women and new mothers, especially those at risk for post-partum depression.

Poverty and being single are two important contextual factors often present in the lives of women with a mental illness. Exacerbating the stigma of mental illness is the stigma that goes along with poverty and being a single mother. Most women with a mental illness end up as lone parents. In our study, women felt this resulted in further isolation. It was clear the lack of resources was a central barrier to women being able to maintain custody of their children. Women like Kelly felt she could not gain custody because of her poverty.

I couldn't get them back. I had no housing, I didn't have a proper income, I didn't have a job...it would have been impossible.

The current social service system provides very little ongoing support to women who are lone parents. Cutbacks have meant a reduction in homemaking services, and many women have been pushed further into poverty. "Mainstream" services for single mothers were not always receptive to women with a mental illness. Frances, the one woman in our study who had managed to maintain custody of her child, talked about how the stigma of having a mental illness prevented her from accessing the few resources available to single mothers.

If I didn't have a mental illness, I might have bonded with other parents and had other moms who didn't go back to work and all that.

The lack of access to safe and affordable housing means many women are maintaining themselves in substandard rooms in the city's most impoverished neighbourhoods making it even less likely they will regain custody of their children. Exacerbating this situation is the fact that women reported being unable to access mental health services until their situations were already quite severe. This means that, by the time women get assistance, it is often too late and they have already had their children apprehended.

Assumptions about motherhood and mental illness

Mothers with a mental illness are assumed to pose a risk to their children. The women in this study recognized that there is a widespread belief that women with a mental illness pose a risk to their children. The lawyer we interviewed revealed that introducing a history of even minor illnesses involving mild depression or anxiety is an effective way to cast doubt on a woman's

capacity as a mother. She reported that issues of mental health are being raised in up to 80 percent of custody and access hearings. This tactic casts almost all women as potential risks to their children. Those who are the highest risk for losing their children, however, are those with a serious mental illness or protracted contact with the mental health system before entering the custody and access arena. Women who seek assistance for mental health problems face the reality that their records may be used against them in child custody hearings.

Kelly, suffering from severe stress after her mentally ill father committed suicide and her marriage ended in divorce, lost custody of her two girls (three and six) shortly after she entered the mental health system for treatment. She and her family received no warning that her children were being apprehended.

[The social worker] arrived on my door step with court orders to relinquish the children to him and they went into foster care.

Later, when she tried to find out about the whereabouts of her children the social workers would not give her any information. She concluded:

There seems like it's a blanket policy of the Ministry that every mother who's mentally ill loses her kids. There is no evaluation, no working with the mother...and there's no communication. I never knew what the social workers were going to do.

Workers concurred with women that apprehension was often swift and without warning, but provided the rationale that prompt intervention is necessary to protect children.

Kelly, like most of the mothers in our study, came into contact with the legal system as soon as her mothering capabilities had been questioned. She and other women described difficult, often prolonged court battles where their abilities were further questioned. Before losing custody, many women are often deserted by the fathers of their children. These men often reappeared with new wives or their own parents to claim custody rights. In some instances, this led to the woman systematically being further cut off from her children. In Kelly's case, her ex-husband, who was a chronic alcoholic, reappeared with his parents to gain full custody of their children. Kelly described the difficulty she had even asserting her visiting rights.

The court would outline every other weekend from 6 o'clock Friday to 6 o'clock Sunday and I would...one of the things I should tell you is that very soon after the court decided he would have custody, he [ex-husband] unlisted his phone number, and the girls were under strict orders not to give me their phone number. I couldn't even phone them to just have a chat.... I was cut out of the parenting as much as possible. It just went from bad to worse.

Although when Kelly's children came of age they chose to live with her, she spent many years attempting to stay connected to them with very little systemic support to do so. These experiences reinforce for women that they are incapable or undeserving of motherhood.

System failure/unintended outcomes

The mental health care system consistently undermines the mothering role. The foster system was also a target of criticism by women and their advocates. Women perceived foster care as inadequate and sometimes harmful to their children, especially in cases where children were moved frequently among foster homes. A counsellor with the Ministry of Children and Families spoke about how the foster system sets up a situation where birth mothers are further stigmatized and marginalized. In essence, the foster system as it currently functions, provides another message to women that they are incapable of mothering or maintaining ties with their children. She argued that this mentality is built into both the structure and the language of foster care. That is, calling temporary caregivers “foster mothers” and “foster fathers” reinforces the notion that the birth parents are incapable of fulfilling this role. The shame that accompanies the loss of the parenting role often, in her opinion, worsened a woman’s mental state. She suggested a foster system that encourages mentoring relationships between the “temporary” parents and the birth parents. This would allow mothers to play a range of roles in their children’s lives, and the adoption of language that recognizes the special relationship between a mother and a child regardless of whether the mother is capable of taking care of her own child. For example, describing foster parents as foster “aunties” and “uncles” would allow women to maintain a sense of their unique connection to their children.

Women often experienced system responses to their situations as punitive and judgmental. As a result, many were reluctant to seek help for themselves and their children knowing that such action opens one up to the scrutiny of child protection workers and other experts who have the ability to make critical determinations about one’s life. Being a case in the mental health system also undermined the women in front of their children. Cassie explained.

If the law says that I’m supposed to give these people access to this child and these people do not hold me in high esteem, what chance do my children have of ever learning to respect me? This is what I’m saying. People don’t understand. It’s very, very difficult. You can be trying and trying and trying, you know, and spinning your wheels. But if you get these other people undoing the good that you’re doing, and you don’t have people out there that you can trust and you can say: “Okay, this is my reality, examine it, see if you think if it’s good or not good, I am open to examination.” But at the same time, if it’s good, if it’s positive, I need some help out there to reinforce what I’m putting out.... I’m trying to teach my son about values, I’m trying to teach him to respect, what’s important and I need help peripherally to reinforce what I believe is important. ’Cause if not, everything I’m doing is going to be undone.

The “system” responses were perceived to be focussed on surveillance rather than support. Women in this study described feeling like they were constantly under scrutiny. Expert opinions were used to judge whether a woman was capable of caring for her child. Rarely, were experts used to uphold a woman’s capability. As Cassie commented:

In court, he made it sound like I was a danger to her, which wasn’t true at all. He had a good lawyer and all.

Similarly, Jessica indicated that the child protection system is mobilized around risk and not support. The reactive nature of the system was commented on many times by women in our study who emphasized the need for ongoing financial and social supports to maintain wellness and the custody of their children.

Providers and policy makers echoed these concerns. Those working in the child protection system indicated their work is driven by work-load pressures and a lack of resources. Workers felt they were often forced to make quick decisions about apprehensions. Informants saw the absurdity of a system that puts children into care because of a lack of resources, especially for single mothers. Many described the women they came into contact with as willing to make changes to maintain a relationship with their children, but impoverished circumstances and lack of supports mitigated against this.

Women reported that even services that were ostensibly granted to them to provide support sometimes operated as surveillance. For example, some women reported that confidences they had shared with homemakers, provided by the Ministry of Children and Families, had resulted in child protection investigations. As a result, some women with mental health problems are reluctant to accept support.

The importance of non-judgmental support was a key theme in one woman's story. Frances was the only woman we spoke to who had successfully maintained custody of her child throughout periods of illness. Her ability to do so is related both to the particular skill that workers brought to her case and to the supports they were able to secure for her. In part, it seems that reaching out for help before her condition became serious had an impact on Frances' ability to access supports. Thus, her own self-advocacy skills were key. As a lone parent, Frances, like other women in our study, emphasized the need for assistance with child care on a regular basis as well as periods of respite.

The tools used to assess a child's risk were believed to be inadequate. In the context of mental illness, risk assessment and the role of "expert" opinion are critical to determinations about a woman's ability to mother her children. A preoccupation with assessing and predicting risk led our informants to evaluate the child protection assessment tool in terms of its ability to do this accurately in cases where there is a parental mental illness. Currently, the *Risk Assessment Model* has a section called "Mental and emotional ability to care for a child" (p. 45). This section does not allow for clear distinctions between someone struggling with regular emotional stressors and people who have a diagnosed mental illness. This tool is seen as inadequate in assisting social workers with determinations about risk in families where there is a parental mental illness. As a result, social workers often act on their own preconceived ideas of "normal" or "abnormal" behaviours, and rate families where there is a parental mental illness higher on the scale of risk than other families.

Several informants felt a separate section on mental illness was required in the Model and that more training about mental illness for social workers was necessary. Our informants invariably felt appeals to the expert opinions of psychologists and psychiatrists would remedy inadequacies in the Model and in social work training. This view was held despite the fact that expert determinations are often made during brief visits between a woman and

her psychiatrist where standardized assessment tools, which decontextualize women's experiences, are used to determine parenting ability.

There is no system support for women who lose custody of their children. Women felt that providers were quick to judge them on the basis of their mental illness diagnosis and this, in turn, resulted in their rights with respect to their children being quickly curtailed. While women generally recognized that during periods of illness they had sometimes been incapable of looking after their children, those who had lost custody described the process leading up to apprehension as being largely hidden from them.

If a child was apprehended, the system's interest in the mother diminished, as she was no longer viewed as playing an important role in her child's life. Jessica explained.

Once I had lost custody of the children, people stopped talking to me. Stopped giving me information, stopped helping, stopped co-operating. The whole thing became a different kettle of fish for me. ...If I didn't ask the question, nobody said anything.... If I didn't ask for help, I didn't get it. If I didn't take the initiative...

The recognition that the loss of custody, especially under emergency circumstances, results in tremendous grief for the mother was mentioned often. Although all our informants agreed that there are situations where women are incapable of parenting and extra care for the child is needed, they also felt more support should be given to women losing custody to ease the devastation of this process for them and their children. In British Columbia, there are extremely limited resources to support women with a mental illness going through this process.

Pregnant Women and Mothers Who Use Substances

Essential insights on the effects of policy on substance-using pregnant women or mothers come from the women themselves and those who work and live beside them. These insights provide a unique perspective on how policy affects and responds to mothers under duress. In conjunction with the data derived from the media analysis and the policy document analysis, these data from the women themselves speak volumes about the impact of various policies as well as the effect of the media on their experience and their interpretation of their experience.

We assembled two focus groups of women who had close links to the issues of substance use, recovery, treatment, child welfare and other interventions. Through existing networks in British Columbia, we advertised for participants who were in a substance-use recovery and treatment program, and who were either pregnant or mothers. Fifteen women who agreed to be involved formed a focus group for a two-hour discussion. A second group of 10 women was formed through a community-based agency which serves women with children and supports them through programs, advocacy and group work. These two groups of women discussed how policies regarding mothering had affected their lives and how they felt about

policy and legal decisions that had been brought to bear on other women in similar situations.

Method

Several scenarios were written describing real cases involving pregnant women or mothers using substances who had come into contact with the authorities (see Appendix C). These short scenarios were read out loud to the focus group members. They included a story about a woman who had been taken to court by her ex-partner to get her to agree to not smoke in front of her son in a car before she was able to take him on a car trip, the story of Mavis Flanders, who died of a drug overdose while her child was in her care resulting in an inquiry, and the story of Ms. G, a pregnant woman addicted to solvent use who was apprehended and became the subject of an appeal to the Supreme Court of Canada.

These scenarios were used to stimulate discussion and formed a backdrop for probing the group members regarding their opinions of these and related cases. Specifically, the participants were asked to comment on the dispositions or decisions reached in these three cases. This approach was taken to determine how substance-using women react to public policy and legal decisions about these issues. Much is known about women's direct experiences with the systems responding to substance use and mothering, and several barriers and supports have been identified by, and for, women in these circumstances. In addition, we also heard their own experiences or those of their friends, relatives or peers with respect to the same issues and policies. Some members of the groups were able to give dual perspectives from direct experience and experience helping women in those circumstances in various capacities.

Findings

The findings reflect the many sources of input into developing attitudes and values surrounding the difficult issues of substance use and pregnancy and mothering. There was little evidence that the women developed their points of view from one source or solely from their own experience. Rather, the women were clearly bringing together several experiences, as well as media interpretations and public opinions that had emerged around them over the years. The findings follow, and have been roughly categorized according to, the main themes of case, context, impact, systems and the construction of motherhood.

Being a case

The women with substance-use issues were most likely involved with the social services system of care, although legal inquiries and court actions have been initiated in some cases. In addition, women with substance-use issues may find themselves involved with the medical system either for their own care or regarding the care of their fetus or child. Mainly, however, the experiences referred to below relate to the social services system, including treatment programs and, inevitably, child welfare. Almost universally, the women felt depersonalized and not valued as individuals.

My life doesn't matter to the social worker.

I wasn't an individual. I was a case lot. I wasn't looked at as a person for my strengths and my faults.

Not surprisingly, the women expressed feelings of helplessness and powerlessness in the face of those who enact the policies that change their lives.

You rarely find a woman strong enough to just quit and go against the Ministry, because the Ministry's such a powerful and ugly force.

So, we're giving them power to decide for us certain things, when they don't have all the information themselves. That is pretty scary, pretty scary.

At first, many of the women were predictably angry and resistant in the face of their relative lack of power.

At first, I was fighting the Ministry, I was like, you know: "Screw you! You this, you that!" You know, I was calling her names and telling her what I was going to do — not listening to her telling me what I should do.... Today I work with them, because they're good, they are just trying, they are doing their job, just like a cop. That's his job right? You gotta understand that.

However, many women described an eventual acceptance of the Ministry's power over them and practised deliberate acquiescence to their authority. Often, this meant identifying pragmatic steps they could take to reach their personally desired goals. They described adapting to the overall reality of being on a case load, and being a "file" by developing a passive or even subservient response in the face of such power over the future of their relationships with their children. The women came to see that in order to maintain the bond with their child(ren), they would have to act in a particular way to maximize their chances of keeping or re-acquiring their child(ren).

And going in to see this, some person who's got control of your life, your child's life, and you have no say, but you got to bow your head and say OK.

Putting the issue in context

The participants were clear about the negative and counter-productive nature of much of the policy and subsequent intervention they had observed or experienced through the child apprehension system. In addition, they viewed the scenarios against the backdrop of context, and wished that policy was enacted in a contextualized manner. There was serious criticism of the lack of appreciation of "context," and a clear feeling that policies did not usually recognize or fit with the uniqueness of individual circumstances. In the case of substance abuse, the elements of context ranged from issues such as the controlling and powerful nature of addiction, to the serious dangers in not considering the woman and her efforts to access resources and treatment.

The specific elements of context identified by the participants as important, when enacting policy, included:

- the nature of addiction;
- individual circumstances;
- the maldistribution of resources;
- the lack of resources for women in these situations;
- the inextricable mother–child bond;
- the needs of the mother for help;
- the guilt and responsibility felt by mothers; and
- the need to take the mothers’ progress into account.

In particular, the women were clear that ministry policies focussed almost exclusively on the child, not the mother–child relationship.

In the focus group participants’ view, the child at risk is seen within the context of the mother herself needing help and being at risk for harming herself (i.e., the participants never fully viewed the two as completely separate). For example, using the scenarios as illustration, the child’s health is at risk due to the mother’s smoking, but the mother is struggling with addiction. Similarly, Ms. G is at risk for giving birth to affected children, but she needs help in her own interest and in the interests of (future) children.

Consequently, many details and considerations pertinent to the women were absent or deemed irrelevant because of the paradigm being used in applying policy. Using the women’s perspective, a different assessment of risk was generated compared to those who were officially assessing risk. Details, such as the patterns of drug use and the viability and importance of the mother–child relationship, were taken into consideration by the women in a more reality-based assessment of risk. In addition, the women were able to suggest that a different distribution of resources, some going to support the mother to support the child, instead of supporting the child independently from the mother (i.e., foster home situations), might be more productive in both the short and long term. The controlling and overpowering nature of addiction was noted however.

Money, [if given to the addicted mother], might go down the drain.

It’s hard to quit.

When you do drugs, some just aren’t strong enough.

With respect to misplaced or missing resources and supports for the women described in the scenarios, the women commented:

It wasn't her fault that she didn't get into one [treatment centre that wouldn't accept her].

There aren't enough resources for them.

I think they could have more resources.

Impact of the policy decisions

The mothers recognized, and were frustrated by, the lack of consideration those who enact policy give to the potential and long-term detrimental impacts on mothers, children and the mother-child unit. The women were clearly frustrated that resources and attention are focussed on the needs of the child as separate and distinct from the mother's. Clearly, in their experiences the mother-child relationship and bond is not recognized by policy. This was a primary theme that emerged from the discussions. From the point of view of the women who were familiar with these issues first hand, the intensity and inextricability of the mother-child bond and the damage done to it through child apprehension were both serious long-term issues.

Particularly compelling were the stories of intergenerational impact.

My parents had no contact with me, I would have been able to stay with my natural parents, but they adopted me into a White family, and then my mom never had any of her kids. The other three kids went to Toronto and got sexually abused by her ex-husband out there, and my sister has five children who she doesn't have custody of. Now, my mom is down here in a wheelchair doing crack. She never got a chance, because she fought for me in court she's messed up on dope and stuff. Her whole family fought for me in court, and she never got me back, and now she's just — my dad died three years ago of a heroin overdose. My mom's in a wheelchair and still doing rock. ... Like her life stopped when we got taken away.

I fought to get my kids back. I got 'em back, but it messed up a lot. It messed up my daughter, being taken away and being brought back, and then she ended up in the same scene that I quit, and trying to stop her, I couldn't, so you know — and my son, I just cling to him and my granddaughter. I cling to them, so it's really hard.

Like, the mother, she went for help and she went and did some, you know, try and get some help, but does it help the mother and the child by splitting them up?

Does the Ministry really care about what's happening with this family? Do they really care? The way I see it, you know, a lot of parents have gone through — being separated only creates more harm. They don't realize it. They're just doing their jobs. They don't really care about what this family's

going through. If they did, they would keep them together and work things out, if they're splitting them up at birth, that is where the bonding is.

In particular, the issues connected to the long-term impact on the bond between mother and child were viewed as central to the question of assessing policy decisions. Consideration was given to alternatives that would enhance the bond, not erase or weaken it. It was felt that resources should be applied to strengthening and supporting the bond, as an overt policy goal.

How is it good that the kid doesn't bond with the mother? How could it be that the child that you just gave birth to, this little person that is connected with you, like you just gave life to this child and then it's taken away from you, because you need to go through all the hoops that you were supposed to. Like, it's hard to quit drugs and they should be more empathetic to the mother and not just thinking whether it is safer for the child to go somewhere else.... Wouldn't it be better [than placing the baby into foster care] to have a group type home with the mother and baby in the house together and to withdraw her that way?

It does something to the bonding, too. Because what happened to me with my son...he means the world to me, but there's still something missing. Because I didn't have him right from when he was born, he was taken away from me when he was born, but after I got him back, it still felt like there was something missing.

Having said that, the women were generally clear about the necessity for, and appropriateness of, intervention in circumstances of substance use by mothers or pregnant women to protect the best interests and safety of the children. In their view, the indicators for this included any evidence of drug and alcohol use and subsequent neglect that may be evident. Their understanding of the powerful nature of addiction and their personal experience with it, caused them to think that the force of addiction to drugs and alcohol would, by definition, lead to neglect, and should be recognized as a greater force than a person's goodwill or stated intentions to change. Several statements emerged in response to the scenarios presented supporting this view.

You've got someone who's lost previous children, has an addiction, has refused treatment, has opted not to take the steps...and brings more children into this world, somebody has to protect those children.

If I had seen that [drug paraphernalia] in the baby's stroller, yeah, I'd take that baby, no remorse. I would take that baby away.

When you have drug paraphernalia in a stroller...I think you have a problem.

I feel that a treatment centre should have been pushed onto her good [re: Mavis] ...or they should have done home visits.

I don't agree with just letting women have children carte blanche like this, they all keep getting taken away, and you have to stop it somewhere.

Participants were less equivocal about the influence of tobacco, but did eventually come to impose the same guideline with respect to using tobacco in front of children.

Maybe [the son] had a terrible childhood, in and out of hospital due to breathing problems.... I wouldn't want to go anywhere near where smoke is either.

Well, what's the big deal? Smoking and polluting your kid's lungs or just refraining from smoking the hours he's awake or hours he's in a car or hours he's in a living room with you? Like it's just smoking...it's just cigarettes, you can smoke your lungs out as soon as the kid goes to bed, or go outside and smoke.

I've been very conscious about where I put my cigarettes, where I smoke, and I don't smoke around her and I won't, and I really agree with the father. It's too harmful for the kids. If it's your thing, keep it your thing, not the kids'.

The last main area of impact concerned the emotional responses that policy decisions created in the women, and how these emotional impacts seemed to have a direct effect on fuelling their initial problems. The result was that some decisions were held up as key contributors to further substance use and related impacts. The women spoke at length about these emotional effects. The mothers harbour immense responsibility for protecting their children from harm — caused by themselves and others. This responsibility is mingled with guilt and shame and, ultimately, fear of potential apprehension of their children. In sum, these pressures were seen as contributing directly to a further deterioration of their situation regarding substance abuse.

I'd relapse too if someone told me I couldn't get in [to treatment].

Then you lose hope and out of shame and guilt of losing your kid, you go out and use more.

The threat of losing my children was something they dangled, so it was a real stressor for me and it was a trigger for me.

System performance

As stated above, the women generally agreed that policy application has to be individualized and tailored to women's individual circumstances. Failing to do this decontextualizes decisions at considerable cost to the women and their children. In addition, the women described the effects of being caught up in the system. Much of this commentary hinged on being considered a category, in addition to a case. With respect to addiction and substance use issues, this manifests in the form of assumptions about future behaviour based on past patterns. Specifically, women who may be trying to change and seeking help to do so, often find themselves blocked or misled or undermined by the agencies set up to help them.

So, she got in contact with the Ministry, they set up a support thing and then they took her kids anyways? That kind of defeats the whole purpose of the treatment and support doesn't it? ...when you do all that, they just take [your kid] anyways.

I had already admitted to an addiction, was seeking help and they stepped in not knowing the full story and blew me right out of the water, blew all the stuff I had in place, took all that away from me, so I had to start from square one, but with their orders.

Like I admit to myself and to everyone here that I am a sick person and I need help. And when I didn't have this safety and stuff, I was voicing this to the ministry workers who used that information against me, and I was no harm to my children, I was seeking education, was seeking counselling, was trying to fix all these things and keep us together as a family unit, so that my children could see the recovery in process and what a healthy world is supposed to look like. When they break you up and shove you here and there and everywhere else, it adds more stress and trauma to those children's lives, you know.

Some of this is in the form of system failure, in the sense that decisions appear to have been made that do not reflect current or actual circumstances. Many stories emerged about the timing of apprehensions that appear incongruent with the woman's own circumstance. For example, the child stays while the mother is actively using, but when she is "clean" and actively working toward recovery, and even seeking assistance from the Ministry, the child is deemed at risk and apprehended. Some of the mothers felt that the judgment was based more on their past history and decisions made about them in the past.

And when I was using, Child Welfare should have stepped in. Like for me, they didn't step in then, they waited until I was six months clean and in recovery, and in treatment, and that's when they stepped in.

They're judging her from her babies, you know, from her past, and that's not fair.

So what if she's using drugs, she's come a long way...they're not looking at what she did do.

They also don't see how, like if after a while you're doing better...they judge you on your past, and what you've done before. Like the mistakes you've made before, instead of how you...they still judge you on what you did before.

The women can choose to acquiesce and adapt to the requirements of the Ministry and other agencies or, alternatively, if the system is clearly perceived as working against them, to avoid the system completely.

And when you say the Ministry, the first thing that anybody wants to do, and myself, is run.

I think the next time she needs help she might not go get help because she's afraid. She can't trust them because she was told to go there for help and when she did they took her baby away. So, she'll have this fear in the back of her head whenever she needs help that something bad might happen. She can't trust the Ministry.

Some women described choosing to remain undercover completely by avoiding contact with community agencies. They clearly believed that accessing helping agencies was contributing to their problems with the Ministry.

Well is it just the Ministry that she's not trusting? Is it [other agencies in the community]? Like what part, did [other community agencies] have a part asking her to be in contact with the Ministry for Children and Families?

I used to go to [a service for drug-using women] when I was pregnant and I was scared that they were going to try and apprehend my baby, 'cause I was underage and 'cause I was using and I was pregnant...before I had my baby, I got out of there. ...I was glad I quit going there.

She contacted the Ministry and they took the baby anyway.

I mean that's the biggest fear [having your baby apprehended]. It's the...where we live, down here in the Downtown Eastside, is trust. If you don't trust anybody, you're not gonna go there and ask for help.

There were a few stories indicating that being a case in the system can have positive effects, when the women get a particular kind of support that makes a difference. In these instances, having to relate to the system turns out to be a good thing. Interestingly, the positive stories result when the women felt treated as individuals, and when their cases became unique to someone in the system. When their own needs were recognized and support or assistance given to them, the mothers responded well.

And one month after my kids were gone, they said I would never see my kids again, unless I quit drinking, unless I left my husband, and moved, and did this and did that, and I said: "Yeah, right!" I told them to just leave me alone. Then one social worker came to see me. He was very nice. He convinced me that, you know, I was going to see my kids. And I had gone deeper into the drugs and alcohol, but he just told me, like you know "give it a chance, try it, see if it works." ...So, he was the only one who really listened to us, so I've been clean now for five years, with him just talking to me and just supporting me the right way.

The participants insisted that those in a position of authority should wield their power more appropriately (i.e., as advocates rather than adversaries). They wished for less surveillance and more flexibility with the policy to help them and their children. Aspects, such as redirecting resources from foster care to the mother, so there could be some support and rebuilding of the mother–child link came up several times.

Even if it was out of province, they had to pay for it anyway. Why couldn't they have helped facilitate that and accommodate her and get her somewhere she could go? There's treatment centres all over the country.

The grandpa gets almost \$2,200 a month for my two boys. Like he's getting money from the financial side, from Family Services, yet when I have my boys on weekends, I get them every weekend until I get them back, they won't help me out one cent.

In general, mothers said they needed resources, as well as tools to change. The mothers assume that the women in the scenarios (like themselves) want to change, but need information, support, understanding, assistance and resources.

I phoned the worker from downtown and said: "Hey...I've relapsed," and she said: "Well you gotta do something, you gotta get clean or something here, because otherwise we're going to have to put your daughter up for adoption." So I said: "Help me out," and she goes: "I can't help you out, you have to." And I said: "Look I don't know what to do."

They didn't do enough. I don't think they followed up. They didn't give her information, or where she could get help.

They tell you to do it, but don't give you the tools to do it.

Construction of motherhood

Overall, the women's testimony gives us some insight into the assumptions and predictions made about their ability to mother their children. The assumptions surrounding substance use and its powerfully compelling nature give rise to the view that mothers who use substances will relapse and, therefore, cannot be trusted to look after the best interests of their children. Consequently, it may be that developing capacity in these women as mothers is not a primary goal of the system or the policies. The policies regarding risk assessment clearly state that substance use is a risk factor, with little attention paid to harm reduction, patterns of use, place of use or parental performance.

The policies and media reports result in a perception of a contest over power and rights between mothers and children. Clearly, the mothers felt the rights of the child were framed in opposition to the rights of the mothers. They believe that the B.C. Ministry for Children and Families was misnamed, as it really was the Ministry for Children, and this emphasis should be made explicit.

They should take the families out of there. It's the Ministry for the Protection of Children.

They agreed with the protection of children, but not at the expense of supporting women, mothers and the rights of mothers and women. In response to some of the scenarios, it was mentioned that fathers' rights were identified, but not mothers' nor even their new partners, who were in some cases acting as parents to the child.

I know that our children and our society today need to be protected.

[Response to previous] But what about the women of society, too? We're slipping through the cracks.

Yeah, basically I hear the father's point of view, but not the mother's, you know, and the child too.

I'm sure she would have consented [to the smoke-free car] if she didn't have a partner, he was probably saying: "Well, I'm not going to let him [the ex-husband] tell me what to do.

But you know, being the partner...I guess he would feel like the ex has got control? But all in all, it's not control, it's a concern of the child, he's concerned about his son. The stepfather [on the other hand] is concerned about having a cigarette on the road. Like you say, we really don't know what the partner, where he fits in.

The partner doesn't care, he just doesn't want to be told what to do. She's caught in the middle.

Conclusion

In summary, the individuals in the focus groups had complex and thoughtful responses to the policy issues raised with them through the scenarios. In addition, they were quickly able to relate their own experiences and those of their associates, clients or acquaintances. There was not an overall denial or defensiveness regarding the issues of child safety and protection, but rather a fundamentally caring approach that saw the difficulties in serving the interests of both mothers and children.

Clearly, the respondents see the enactment of policy as linear and unrelated to reality, unappreciative of individual details and definitely not acting in the interests of the mother-child relationship. While feeling like a case could be demoralizing, there were a few instances when context was taken into account. Women felt that good decisions were made and support given. But overall, the almost complete lack of focus on the mother-child bond, and the negative and permanent results of this inattention was the most salient theme. Once established at birth, the mother-child bond may have been weakened by interventions and policy decisions, but it did not recede for either the mother or the child.

The impact and consequences of policy were obvious and central to the responses of the women. The short-term effects were demonstrated clearly in the emotional and dispirited responses of many of the women to the scenarios and to their own situations. The long-term effects were not only articulated but demonstrated in the stories of the women who had suffered from the intergenerational effects of ministry policy.

And then you're violent if you act out against them. All of a sudden, you got a violence record. Hey, if you see a mother bear, and somebody tries to take her cub, don't tell me that mother isn't going to get violent. You try to take my, you know, it's all I have.

Mothering and Woman Abuse

Policy discourses related to mothering in the context of woman abuse are most visible within civil legal proceedings. When an intimate partner abuses a woman, the social response is primarily located in the criminal justice system. When the woman is a mother, the issues related to her mothering are primarily dealt with in the civil justice system. Mothering in the context of woman abuse comes to civil court because of legal proceedings regarding child custody and access and, in fewer cases, because of child protection issues. In Canada, the *Criminal Code* and case law govern the criminal justice system. Custody and access issues in the civil justice system are guided by the federal *Divorce Act* and Child Support Guidelines. In addition, each province or territory has legislation covering those issues and people not covered under the *Divorce Act*, and issues particular to the given province or territory. In British Columbia, this legislation is embodied in the *Family Relations Act* for child custody and access issues, and the *Child, Family and Community Service Act* (CFCSA) for child protection issues.

To examine the policy discourses related to mothering in the context of woman abuse, we elected to focus on legal proceedings within the civil justice system. This system is where the dominant discourses are enacted. In recent years, fathers' rights and men's rights groups have worked to support men in contesting the rights of mothers in civil court proceedings. Such groups link men with legal resources, and other men, organizations and lawyers that are "pro men's rights." For example, the BC Fathers' Web site <<http://www.fathers.bc.ca>> claims to be "a source of hope for fathers and families who are being extorted and impoverished by the Family Maintenance Enforcement Program (FMEP) being funded with our tax dollars." It provides links to over 30 groups and individuals, including explicitly anti-feminist groups and critiques. These groups have been active in processes related to proposed amendments to the *Divorce Act*. This study was conducted at the same time as a second set of consultations regarding the *Divorce Act* was being conducted by the federal government (Dept. of Justice 2001). This was a follow-up to a lengthy process that included a series of hearings conducted by a special joint committee of Parliament and the Senate, and the production of a report entitled *For the Sake of the Children* (Special Joint Committee 1998). Policy related to child custody and access is clearly under review and revision, and these shifts are playing out in family courts across the country. Therefore, we identified civil court proceedings as the best source of data for observing the enactment of competing discourses and policies.

Method

A descriptive qualitative approach was used, with non-participant observational data and court documents serving as the primary data.

Data collection

Initially, we sought to recruit women who had experienced abuse and whom we could interview and then observe in court during legal proceedings related to child custody and access. We approached several lawyers who practised with women who experience abuse, but they were reluctant to provide names. Next, we focussed on women living in second-stage housing (after being in transition houses). We contacted three transition houses, and used letters and posters to recruit participants. Although we obtained interviews with women in this manner, we did not succeed in contacting women who had court events during our data collection time frame. Thus, we conducted court observations of hearings related to custody and access by attending family court sessions that are public.

We used data including documents and collateral interviews from the women we interviewed and cases we observed (see Table 6) as primary data. Women were interviewed if they had experienced abuse by an intimate partner and were contesting child custody or access. Similarly, cases from family court were used as primary data if there was evidence of abuse of the woman by an intimate partner and if the case involved child custody or access issues.

Interviews were conducted with each woman and with at least one other individual involved with each woman's case. These collateral interviews were conducted with a person identified by the woman as central to, and knowledgeable about, her case. All interviews were audiotaped. Each interview took one to three hours, and focussed on understanding the background to the court case.

Court observations were conducted by three or four members of the research team at a time. Observations were made in supreme court chambers (where applications for interim decisions are made) and in provincial court trials (where final decisions are made). Interim decisions are made by masters, who have more limited powers and are appointed through a different process than judges who preside over trials. Researchers and research assistants took verbatim notes simultaneously (tape recorders were not permitted). Court dockets posted each day provided advance notice of the nature of applications being made (e.g., application for a restraining order, application for interim sole custody) but, often, cases were added or deleted from the docket. Thus, cases were not preselected. Rather, on days chosen only for the convenience of the observers, each case was observed until it was ascertained that children were involved (for example some cases involved only division of property), and that the mother had been abused by her partner. Similar to the media data, the court events were variable in the extent to which woman abuse was made evident. Woman abuse was thought to have occurred if there was mention of charges or convictions of the partner for assault of the woman, mention of abuse by lawyers or in affidavits or testimony, or applications for non-molestation restraining orders. Observations were continued for cases involving child custody and access but not woman abuse, but these cases were not treated as primary cases (i.e., we did not collect court documents nor subject the

observational data to detailed analysis). These secondary cases provided background data regarding discourses related to mothering in the absence of clear indications of woman abuse. Data collection was suspended for cases that did not involve child custody and access.

The observers were trained and experienced in non-participatory observation, but were not trained in law. Two of the three researchers had health care backgrounds; all three were working in health care, and all had practice or research experience with women who had been battered. The research assistants were trained in history and anthropology, and had several years of experience as counsellors and advocates for an agency that serves women who have been battered. All were committed to a women-centred, feminist and anti-racist philosophy. Thus, during data collection we attended to issues of power and control, particularly as they are enacted along the lines of gender, race and class. During data collection, we also continuously interrogated our perspectives and practices to guard against our biases unwittingly influencing our observations.

Court sessions lasted from one to three hours, during which time several cases would be heard, some of which might meet our inclusion criteria. Immediately following court (and during any breaks in proceedings) the observers would pool their verbatim notes to reconstruct as accurate an account of what was said as possible. This reconstruction was completed for all cases involving custody and access, but only those with evidence of abuse were reconstructed completely for detailed analysis.

Supporting evidence was sought related to each case meeting our inclusion criteria. It proved difficult to penetrate the court system, although we were assured the proceedings were public. It proved impossible to obtain taped transcripts of proceedings or judges' taped reasons for judgment. Thus, court outcomes were obtained from the court clerk notes, and written reasons for judgment were only obtained when they had been fully transcribed, usually at the request of a lawyer. We were able to obtain affidavits and the contents of court files when we had the individual woman's permission. However, for the cases observed, we were unable to access court files. Thus, our understanding of affidavits and other documents referred to was confined to what was said in court.

Ethics

As part of the overall project, ethical approval was obtained from the organizations for which the researchers worked. Written consent to participate was obtained, and confidentiality for those who were interviewed was assured. Each woman was asked to select a pseudonym that reflected her ethnicity, and all documentary evidence was kept in a secure, locked location. Written consent was also obtained from the women to interview others regarding their cases. Those who were observed in court were part of a public process, and all documents related to the cases were public documents. However, we opted to use pseudonyms for these women as well. We reasoned that our analysis might jeopardize safety if the women were identified, particularly when ex-parte (in absence of one party) orders were being sought. We selected pseudonyms that reflected the ethnicity of the person's real name, reasoning that this would serve to illustrate the ethnic diversity of the sample, and to highlight some of the issues related

to racialization and immigration we encountered. We have also elected not to name particular lawyers, judges or masters, reasoning that the issues are not particular to individuals.

Sample

Thirty-two cases involving child custody and access were observed. Of those, woman abuse could be readily confirmed in 10. The cases that involved custody and access issues, but did not clearly involve woman abuse were used as background data to inform our analysis of discourses about mothering more generally. Thus, the final sample used for detailed analysis comprised 13 cases¹⁰ (see Table 6), including either an interview with the woman, or an observation of a court appearance related to the woman's case. In all 13 cases, court orders were obtained. When possible, affidavits or reasons for judgment were obtained. For those women with whom we had personal contact, interviews were conducted with people involved with the case.

Data analysis

In preparation for analysis, a synopsis of each case was constructed drawing from all available data. Then, drawing on the principals of critical discourse analysis (Fairclough 1989), the texts and observational data were analysed on a case-by-case basis. The documents and observational data from the 13 cases served as the primary data, as they most closely represented the discourses in action. Data from the other court observations involving custody and access (but not obvious woman abuse) were used as background to understanding discourse regarding mothering in general. Data from interviews with the women were used as background to understanding the context and impact of court proceedings. Data from interviews with lawyers, transition house workers and so on were used to provide understanding of the legal and social context within which such legal actions occur. Our guiding question was: How is policy discourse being enacted in relation to women as mothers with respect to woman abuse?

Early in the analysis it became clear that the dominant discourse was the discourse of the best interests of the child. This is not surprising, given that, as described in Chapter 3, this idea dominates the legislation and policy documents. Once we determined that the overarching operating idea was the best interests of the child, we again reviewed the data, asking: How is the idea of best interests of the child constructed? What role does the idea seem to play in these proceedings? What seems to influence the ways in which best interests of the child are constructed and featured in these proceedings?

Limitations

The observations and documentary data from the 13 cases used as primary data, and interviews and observations from additional cases used as background data were sufficient to show ways that discourses about mothering were enacted in this specific context, and to suggest elements that would be useful in the development of an analytic framework. However, we are not able to make claims about the extent to which our observations are representative of custody and access proceedings in general. Indeed that was not our purpose. Rather, we used the data to highlight common features of the discourses operating in these particular cases and as a basis for contributing to the development of the mothering framework proposed in the final chapter.

Table 6: Observed Court Cases

Case*	Interview with woman	Court Observation	Court Documents	Collateral Interviews	Key Features
<u>Soo v. Wong</u>	x		Court orders Reasons for judgment	Lawyer	Pastor hostile to the mother given supervised access.
<u>Rodriguez v. Agnew</u>	x		Affidavits Court orders	Transition house worker	Father of child involved in gang activities and drugs.
<u>Najinksa v. Feldman</u>	x		Affidavits Court orders	Children's counsellor	Multiple applications by both parents to vary access.
<u>Dhaliwal v. Dhaliwal</u>		x	Court orders Reasons for judgment	Court advocate Lawyer	Extensive media coverage. Arranged marriage.
<u>Kung v. Kung</u>		x	Court orders		Father previously abducted child to another country. Ex-parte application. Immigration issues.
<u>Byrne v. Gordon</u>		x	Court orders		Adjournment on application by woman to drive the "safe" family car.
<u>Singh v. Singh</u>		x	Court orders		Father of children claims woman "kidnapped children" when she left for transition house and wants children returned to their "ordinary residence."
<u>Charles v. Charles</u>		x	Court orders		Man contests motion for adjournment of trial for custody unless he can stop payment on child support.
<u>Vartan v. Tchakarov</u>		x	Court orders		Ex-parte order denied despite threats by father to kill the child.
<u>Samson v. Samson</u>		x	Court orders		Mobility rights of woman denied.
<u>Haas v. Haas</u>		x	Court orders		Father invokes child's best interests and master offers opportunity for more access than requested.
<u>Wheeler v. Wheeler</u>		x	Court orders		Sexual assault of one child not considered in access to another.
<u>Sun v. Sun</u>		x	Court orders		Master grants more access than requested. Interpretation and translation issues.

Note:

These case names are pseudonyms to protect identities. These 13 cases are identified in this paper with an underline.

Findings

The most salient finding from analysis of these data was that the court's own stated intention to insure the best interests of the child was undermined and contradicted by the discourses and processes of policy enactment within the legal system. Achieving the best interests of the child was the stated ideal in these cases. This goal was pursued within the structures and rules of the legal system and within legal discourse. In the cases we reviewed, we saw the best interests of the child being determined in a proscribed manner, influenced by discourses that neutralize gender in some ways, but amplify gender differences in other ways, evaluate mothering and fathering differently, privilege fathers' interests and render violence irrelevant.

Being a case

Being a case in the context of child custody and access meant being a legal case. The legal case is a limited version of events. The case is stripped down and constructed within the legal context, including the rules of evidence and legal procedure, the relevant laws (in these cases, primarily the *Divorce Act* and the *Family Relations Act*) and by various assumptions, particularly those about women, class and culture. With these influences, masters, judges, lawyers and mothers participated in erasing violence from the case and constructing mothers as selfless, and women as selfish.

The importance of context

In the cases of mothering and mental illness and women who are pregnant or mothers who use illicit substances, the lack of context the women described referred to the fact that the context of their everyday lives was overlooked. In the context of woman abuse, however, and because we focussed our attention on the enactment of policy in a narrow setting — the courts — we do not have as data the experiences of women directly. Rather, we have observations of the women's lives within the particular context of the legal system. Hence, the context of mothering and woman abuse is the legal system, particularly the civil justice system. Legal rules and procedures structured the events and, given that the Canadian legal system is inherently adversarial, each case was characterized by pitting the competing and contested interests of the plaintiff and defendant against one another.

The proceedings were formal and followed a particular set of rules and rituals. The clerk called the master or judge, all present were required to stand while the master entered, the lawyers waited to be called and bowed on leaving court, and so on. The overall adversarial structure and formality contrasted sharply with the often humorous way lawyers enacted the convention of referring to one another as "friend" and the camaraderie often observed between opposing lawyers and, occasionally, between judges and lawyers.¹¹

The proceedings involved the use of evidence, case law, legislation and, in one case, reference to research studies. A variety of forms of information, including facts and opinion, were talked about as "evidence." Information was routinely presented as "facts," regardless of whether it was information from financial statements or letters of support in the form of affidavits. Affidavits included statements by the parties involved in the proceedings, as well as letters of support and statements from friends, family members, social workers, other social service workers, child workers and employers. Other evidence included letters,

financial statements, and the testimony of expert witnesses. Evidence such as this was used to lay out the facts of the particular case.

Precedents from case law were offered in support of principled arguments. For example, three of the cases (Samson v. Samson, Dhaliwal v. Dhaliwal and Singh v. Singh) hinged on the issue of the custodial parent's right to relocate with the child. In each case, *Gordon v. Goertz* [1996] 2 S.C.R. 27 was cited. The judgment in this case stated that "the amendments to the divorce act in 1986 (S.C. 1986, c. 4 (now R.S.C., 1985, c. 3 (2nd Supp.)) elevated the best interests of the child from a 'paramount' consideration to the 'only' relevant issue." According to the lawyers we interviewed, this case is used frequently to support the importance of the best interests of the child, and to support denial of relocation requests.

The presentation of evidence, and case law, and references to specific sections of various acts conveyed a sense of objectivity. Judges or masters also conveyed various degrees of objectivity as they used this information and made decisions on each of the applications.

The process employed by the judges and masters was not easily determined, as verbal explanations for decisions were not always given, clerks' notes regarding decisions did not include any rationale, and written reasons for judgments were rarely available, particularly for interim decisions. The written reasons for judgment in Dhaliwal v. Dhaliwal provided the clearest understanding of the process used by judges and masters, and illustrated the most concerted effort to convey objectivity. In this case, the judge methodically reviewed the evidence, and laid out his analysis, which was based on his judgments regarding the "credibility" and "reliability" of the plaintiff, defendant, witnesses and evidence. What the judge determined to be credible and reliable included the witnesses' demeanour ("straightforward", "frank" and "responsive" were seen as credible in contrast to "evasive" and "unresponsive"), the "internal consistency" of testimony and the "consonance with other evidence" of witnesses' testimony.

Organizational practices supported an appearance of objective, principle-based decision making. For example, we were told, both in formal interviews and in casual conversation with court workers, that judges want to reserve the right to "clean up" their reasons; hence, such reasons were made inaccessible. Despite claims to objectivity, opinion was routinely offered as evidence, evidence was proscribed by the operating principles, bias operated in what evidence was allowed and what was not, and judgments hinged on the discretion of the judge. Our data suggest these processes are, in fact, highly subjective.

Opinion, in the form of letters of support, affidavits and statements in court, was offered, and treated as fact. However, some facts were considered and others were not, depending on the rules (e.g., whether the affidavits were submitted on time) and the disposition of the judge.

Certain principles emanating from the *Divorce Act*, supplements, amendments and proposed amendments to the Act determined what would be taken into consideration in judgments and what evidence would be presented. In other words, evidence was presented, not according to what really happened, but by what principles were known to operate. These principles

include the idea that a coherent parenting plan is in the best interests of the child (see, for example, the following exchange from Samson v. Samson), that maximum contact with a father is in the best interests of the child, and that shared parenting should be the norm.

Father’s lawyer: So, what is the plaintiff’s plan here? I have to tell you, there is no plan. This is a young woman who has pinned herself into a corner in [a rural town]. She’s a bit of an immature party. What is her plan for her and her child? No plan. Does she have a home? I submit not. She’s planning to live on a farm. She talks about a mobile home. Or [her fiancé] will build a house. [Her fiancé] has a full-time job as a pipe fitter and travels a lot...

Mother’s lawyer: [interrupts] Pardon me, your honour. My friend is speaking without evidence here.

Master: Miss M.[mother’s lawyer], your friend is making an argument and I can listen to it if I choose to. Go ahead, Ms. P. [father’s lawyer].

The presumption that shared parenting and joint custody should be the norm was evident in the observational and interview data. For example, in two cases, the father was offered more custody than he wanted. As one lawyer noted, these ideas have become the court’s “agenda.” This agenda is supported by the 40 percent rule from the *Federal Child Support Guidelines* (Dept of Justice 1997) in which child support payments are lessened or eliminated for a person who has at least 40 percent custody. One lawyer noted:

Lots of men insist on varying access orders to three days a week just so they can get out of paying child support. When the courts have an agenda, justice is compromised.

The presentation of evidence drew on class assumptions, particularly with respect to establishing the extent to which parenting plans were in the best interests of the child. The parenting plans were almost invariably presented to reflect middle-class assumptions. For example, in Kung v. Kung, the mother’s lawyer stated that the mother had rented the top floor of a nice house close to the school. In the example presented above, from Samson v. Samson, the mother’s parenting plan is characterized as “no plan” because it involves a “mobile home,” “a farm,” a rural setting and a “pipe fitter.” In contrast, in Dhaliwal v. Dhaliwal, the mother’s plan is evaluated as a good plan because, as the judge noted, “she has an outstanding job offer,” “in a [prestigious] bank,” will live in a “four-bedroom home” and “has an automobile.” This was the only case in which the outcome could be thought favourable to the mother. The outcome was at least partially based on the judge’s evaluation of the father’s plan as “inchoate” due to his lack of “actual investigation of options to accommodate his shift work” and his suggested options for child care (a 16-year-old niece, an elderly mother).

Finally, the extensive discretion of judges and masters in their decision making could be seen at times to draw on various biases. They allowed and disallowed evidence in what sometimes seemed an arbitrary manner, sometimes made orders without explanation and

without obvious reason, and were openly contemptuous of some lawyers, but displayed warm camaraderie with others. The masters and judges could also be seen to draw on class, cultural, racial and gendered assumptions. In *Dhaliwal v. Dahliwal*, despite careful, methodical treatment of case law and judgment of the credibility of witnesses, class and cultural bias can be seen woven throughout the judgment. For example, the judge begins his reasons for judgment by noting that the proceedings are regarding “**remnants** of a breakdown of an **arranged marriage**” [emphasis added]. Although the judge found in favour of the woman, one of her advocates and one of her lawyers questioned whether the judge was predisposed by cultural bias to seeing her as a “victim” and in a favourable light.

In *Sun v. Sun* we observed the most compelling example of the master’s exercise of power. In this case, a woman was making application for a restraining order and interim custody. The master held up proceedings for nearly an hour awaiting the arrival of the defendant (her former husband) and then the arrival of his interpreter. This was the only time we observed the court being delayed at the convenience of the parties. The same master had moved on quickly when parties in other cases were late. The lawyer, who spoke Cantonese also spoke excellent English. However, the master repeatedly spoke to her in a slow and simple manner that one would perhaps use with a person who spoke very little English. The master ordered (not requested) the woman’s lawyer to translate for the man, and told the woman’s lawyer to write a translation of the judge’s orders (into Cantonese) for the father. In his ruling, the judge not only extended the man’s access to the child, but additionally decreased the radius of the restraining order requested without providing any reason, and refused to hear the rationale from the woman’s lawyer.

Master: I want this to be for four blocks not eight blocks.

Mother’s lawyer: Your honour, if you read the affidavit... [She says something about the drop off point but is interrupted by the master.]

Master: I’m not going to restrict him for 32 square blocks from his home.¹² I don’t care where he picks up his child. I don’t know how long a city block is but it’s probably a square mile!

Mother’s lawyer: It’s just that...

Master: You heard what I said!

The lawyers we interviewed all pointed out that family law has more judicial discretion than other forms of law. In the words of one lawyer:

The discrepancies between how men and women are treated have more to do with who is on the bench than the law.

Constructions of the best interests of the child

In the cases we observed, the best interests of the child were considered to include a coherent parenting plan and maximum contact between the child and the father. Through evaluating the

parent's plans for the child and drawing on class assumptions, the material wealth of each party was made relevant. With one exception, comparing material resources demonstrated that the mother had fewer resources than the father in each case. Further, in presenting mother's parenting plans, it seemed that lawyers and mothers needed to demonstrate the mother's ability to provide without suggesting she could not provide full-time child care. A simple question, (e.g., "Does the mother work?") was loaded with possible pitfalls. Consider, in this example from Singh v. Singh, how carefully the mother's lawyer answers to illustrate that the woman can support the child financially without undermining the perception that she can provide child care.

Master: Does the defendant work?

Lawyer for the woman: She started in December. She was in the home with the kids until then, but now she works with her sister and her hours are extremely flexible.

Although in most cases the fathers and their lawyers were careful to phrase "maximizing contact" in terms of both parents, there were some important features of fathers' requests. First, all the fathers in these cases had or wanted more time with their children on weekends, not during the week, and all wanted three days (not two which would be less than 40 percent, or four which would be unnecessary to qualify for the 40 percent rule). Second, the masters often offered fathers more time than they requested. Consider this example from Singh v. Singh.

Father's lawyer: My client is off work due to stress...my learned friend keeps talking about the best interests of the child. The kids were seeing both their parents on a daily basis, but through **her** actions, not legal actions, Mrs. Singh has changed that. It's not for Mrs. Singh to decide what's best for the children. It's not for my client to decide, you [indicating the master] will have to decide. If the *Divorce Act* talks of maximizing contact with both parents...Mrs. Singh is saying that every other weekend. Given their ages, Mr. Singh wants to see the boy child every weekend and the girl from Friday to Sunday [speaker's emphasis].

Master: Is there any reason that they can't spend half time with each parent?
Can I stand this down so you can discuss this?

In Haas v. Haas, a case about child maintenance where access was not contested, the master introduced the issue, and the possibility of problems.

Master: What have we got in place for access?

Mother's lawyer: There has been an informal access agreement since the plaintiff vacated the home. It has been from Wednesday evening until Thursday morning and all weekend.

Master: What about if we make access reasonable and generous. That should do the trick. Let me say this about access. It seems to me things are going smoothly but if you run into problems, there are many people to help, such as family justice counsellors, mediation. Coming back here should be the last resort, but I am not discouraging you from coming back to court. If you're not getting the access you need, you be sure to come back here.

The best interests of the child included financial support of the child in terms of the minimums established by the *Federal Child Support Guidelines*, but did not include the financial well-being of the child's mother, despite the fact that all the children in these cases lived with their mothers. With one exception, child support was something the fathers were trying to pay less of, or not pay. For example, *Charles v. Charles* was a contested adjournment in which the father said he would agree to the adjournment "if I can get an injunction to stop paying family maintenance based on my past income." In the one exception where a father was agreeable to paying whatever he was required to pay, the judge challenged him.

Mother's lawyer: This matter first appeared in the courts on the 23rd of August. At that time, it was adjourned to this date. Your honour pronounced a restraining order. The balance is before you this morning. My client's application is for sole custody of [the] child and child maintenance. To date, we have received no notice from Mr. Haas. I spoke briefly to Mr. Haas and he indicates that he is prepared to consent to our application. [Mother's lawyer turns to Mr. Haas.] Is that right?

Master: Let me ask him that question. Mr. Haas?

Mr. H: I'm here to comply with these proceedings, sir.

Master: I don't know what that means.

Mr. H: I'm here to comply with the child support and interim custody.

Master: Do you want to hint at how much child support you are prepared to pay? It's no good to say you'd agree. You haven't even hinted at how much. What if I said you had to pay \$4,000/month. It would be preposterous! What is your present income?

Although most of the cases we observed included applications for court costs and a request for child support, the court often did not deal with costs. Child support was done strictly by the federal support guidelines so the material interests of the child were reduced to a minimum payment. Spousal support was not raised in the proceedings we observed.

In summary, the best interests of the child was narrowly focussed in these cases on parenting plans, which included child-care arrangements, the resources which would be available for care and the amount of time fathers would have access to the children. (Access by mothers was not at issue, as in all cases the children lived with the mother.) Best interests did not

appear to be connected to the issue of child support and certainly did not take violence against the child's mother into account.

Constructions of women and mothers

Because the best interests of the child were paramount, if not the only relevant issue of concern in these proceedings, and because the prior conduct of the parties was only relevant as it affected the best interests of the child, the conduct of mothers and fathers was selectively relevant. And, violence against the woman was largely treated as irrelevant. These practices left considerable room for stereotypical assumptions and resulted in mothers and women being constructed and reproduced in certain ways.

Prior conduct was selectively relevant: The relevance of the conduct of the parents was an issue in most cases. Following the *Divorce Act*, conduct is deemed irrelevant if it is seen as unrelated to the best interests of the child, and relevant if it affects the child. For example, when a lawyer began to recount the employment of each parent, the master interrupted and deemed the information irrelevant.

Father's lawyer: These parties were married in 1995 and separated in 2001. The plaintiff is 37 years of age, and the defendant is 26. Mr. Samson is an auto mechanic. He earns about \$58,000 per year. He has no other income. The defendant is a travel agent. The defendant proposes...

Master: [interrupts] I don't need to know about that. I need to know where the child is and who is the best parent.

In this same case, Mr. Samson's lawyer claimed that Mrs. Samson drank frequently (when the child was not in her care), had a number of sexual relationships since her marriage, had a lesbian relationship and was a "partier."

Father's lawyer: The defendant became involved with a man who lives in [a rural community] and [Mr. Samson] says over the past year and a half, she's been involved with a number of men. Mr. Samson is concerned about her drinking problem. The defendant denies, in a general way, that she has a drinking problem although she doesn't deny the specific allegations that he makes. She says she's a social drinker. But it would behoove her to deny the specific instances. He says she's out at the gym or doing ceramics at night. She's out of the house and not deeply involved with [her son].

The lawyer continued in this vein for over five minutes. These claims were allowed, despite little or no connection to the child, and despite objections by Mrs. Samson's lawyer. Interestingly, when Mrs. Samson's lawyer began to present counters to the allegations, the master disallowed these counters.

Master: As I said to your friend, the conduct of the parties is immaterial until it affects the child.

In particular, when Mrs. Samson's lawyer attempted to introduce Mr. Samson's violent behaviour, the counter claims and their value were contested by the master.

Mother's lawyer: With Mr. Samson, this is all about controlling [his wife] and controlling everyone's actions. In fact, in Mr. Samson's affidavit, he says that her behaviour has "led me to punch holes in the wall. I also threw a glass on the floor." He justifies his actions because his wife won't do what he wants her to do.

Master: Well, I don't think that's what that paragraph says.

Mother's lawyer: But he's trying to fling blame. The violence is unwarranted. This is not appropriate conduct in any event. It does become very difficult to sort out with the he said, she said...I think this is what we see happening in these cases all the time. He's trying to control her behaviour. If we look at tab 5 after P, the affidavit from...a social worker...

Master: [interrupting] What value is this?

Throughout this case, Mrs. Samson is painted by the father's lawyer as a promiscuous, party-going, hard drinking, unstable, depressed, immature woman. Her lawyer is not permitted to contest these characterizations. The master interrupts Mrs. Samson's lawyer 15 times (compared to interrupting Mr. Samson's lawyer once). While Mr. Samson's lawyer was permitted to submit affidavits from the man's friends to support his claims, similar affidavits submitted by Mrs. Samson's lawyer were dismissed by the master.

Violence was rendered irrelevant: As illustrated in the excerpt above, in the cases we observed, violence against the woman was largely treated as irrelevant. Because in these cases the children's (not the women's) interests were at issue, evidence of abuse, coercion, duress and extortion were used only to create the case for custody, not to create the case for ensuring the woman's safety. This also served to construct the woman as selfless, and as putting the child ahead of her own concerns. For example, in Kung v. Kung:

Mother's lawyer: The child has actually been abducted once to [another country] and Mrs. Kung with great difficulty got the child back with an agreement that if they do separate she'll give up her custody rights to the child. So she's been hanging in the marriage for the past year. She's afraid to leave because it's plain the agreement says he has custody so if she leaves he'll grab the child and be back to [another country].

The whole case was built around the mother's fear of losing the child, with no hint of any fear for the woman herself. Even in stating "he has been very verbally abusive" the mother's lawyer did not identify the target of the husband's abuse. Congruently, the judge refused to grant the restraining order to the woman.

Similarly, in Vartan v. Tchakaroy, the mother's concerns are presented as being exclusively about the child.

Mother's lawyer: The defendant threatened to take the child away and to kill her [pause] to have the child killed [pause] the threats have increased into the fall.... The current concern is that the defendant will come to Canada. He is in the United States. She doesn't know where. She's scared he will take the child.

Sometimes, women participated in expunging their experiences of violence from their legal cases. One of the lawyers we interviewed indicated that they discourage women from mentioning abuse if such abuse cannot be substantiated. Unproven abuse may be interpreted by the court as animosity, and as indicative of a resistance to maximum contact, thus lessening the chances of obtaining custody. One can also surmise that women's continuing fear of retaliation from violent partners may contribute to this tendency to minimize their experiences of violence. One lawyer described how women he has represented are often poor historians regarding violence.

A lot of times, women come in here and they are clearly not the best historians of their cases and they don't have the best skills to assess their situation. Lots of times I'll ask a woman to tell me what happened re: the abuse and she'll say: "Well, he yelled at me and he's emotionally abusive." Then I'll request her medical record and it will show that he fractured her finger. I'll ask her about it and she'll say: "Oh, it wasn't that important."

In a taped police interview in the Rodriguez v. Agnew case, a police officer patiently and repeatedly tried to coax the woman into describing the assault that led her to call 911. However, the woman was clearly upset and repeatedly returned to aspects of the story (such as how her baby was caught under the electric fan her husband kicked) that did not describe the assault on her.

Because past conduct is only relevant as it affects the child, and because there is no clear acceptance that abuse of a child's mother affects that child, violence by a father against the child's mother was not routinely considered by judges and masters making decisions regarding children. In Dhaliwal v. Dhaliwal evidence regarding violence by the father toward the mother was entered, reviewed extensively by the judge (comprising two full pages of the written reasons for judgment) and then dismissed as hearsay, despite the fact that he described the evidence as credible. In fact, in the reasons for judgment, the judge stated clearly that he did not take the evidence of abuse into account in his decision (despite the fact that he found for the woman on all counts). One of the woman's lawyers suggested the judge did this to record the evidence regarding assault while closing opportunities for appeal on the basis that he had considered hearsay evidence inappropriately, or that he had considered factors that did not directly affect the interests of the child.

As suggested earlier, women were told by their lawyers, and the lawyers we interviewed concurred, that violence against the woman was not a consideration in determining custody

and access unless it was well substantiated. In Najinska v. Feldman, the mother was told by her lawyer not to bring up the issue of violence, but was shocked that it didn't "count."

*I said [to my lawyer]: "Why do you think I left him? It wasn't for me, it was for the kids." And he said to me: "I don't care. I don't give a shit why you left him and nobody else does either." In other words, don't bring it up. Although I did [bring up the violence] for the restraining order which, I think those files carry forward. I think the judge saw the information for the restraining order in the next hearing [about custody and access]. It was all the information about the abuse, about the children, about the MCF [Ministry for Children and Families] investigation.... I was amazed that that wasn't taken into consideration. I was shocked because I thought that it would be apparent. He's an abuser. The guy abused his wife, shook his child, went through a program for abusive men, a file was opened by MCF on him when the child was 2½ months old. I left him with the children to protect the children. At least as much as because I became aware that it was abusive and I wasn't able to live in that arrangement any longer and be an effective mother.... For all those reasons, and the court didn't recognize any of it. And the court turned around and handed him the children back for three days a week! ...The court ordered the children to go back to him — unsupervised — for three days a week. So what I did for my children was undone by the court which is why I now think of it as: *The Court v. The Children*. That's my opinion, *The Court v. The Children*.*

Women are selfish: The material well-being in these cases was generally not connected to the best interests of the children and was largely constructed as being about the woman's well-being. For example in Byrne v. Gordon, the woman applied to have access to the safe family car (a Mercedes). The husband eventually claimed that his wife did not have a driver's licence. (Subsequent court documents established that she did.) The woman's application subtly shifted from an attempt to obtain safe transportation for herself and her children to an attempt to acquire a nice vehicle.

Master: I must say, Ms. J., [mother's lawyer] that I am virtually astonished that you would come in here asking for a hard top when [your client] doesn't even have a driver's licence.

Woman's lawyer: The hard top is secondary. The fact is she needs to drive herself and her baby around and it has been said by the mechanic, who I have spoken to myself, that the car is unsafe. It could explode due to an electrical problem under the dashboard.

Master: You know what I'd really like? An affidavit from a mechanic stating that the car is unsafe to drive.

Woman's lawyer: I didn't have time to get that. But I did speak to the mechanic myself...

Master: OK. I'll adjourn it until Monday. All the material has to be in Ms. J.'s office by Friday at 4:30. If your wife has a driver's licence, you must provide her with a rental car.

Woman's lawyer: And if she doesn't have a driver's licence, I'm asking that she get at least \$1,000 to cover cab fare.

Master: If she has a driver's licence, she'll have a nice shiny rental car. I'm not making any order other than what I've already made. Whoever deals with it on Monday will take it all into account.

Good mothers are selfless: Given the rules and operating principles, it was not surprising that "good" mothers were portrayed as selfless in these cases. The child's safety was a legitimate concern; the mother's safety was not of concern. Therefore, women's requests for restraining orders, non-molestation orders and non-removal orders were invariably couched as being in the child's interests. For example, the lawyer for the mother in Kung v. Kung argued: "This is a very important issue that the child be safeguarded."

Women were criticized if they were seen to put their interests ahead of the child's. In the most blatant example, in Samson v. Samson, affidavits, including those from the father, showed the father worked out of town all week and did not see the child during the week. The mother was the child's full-time caregiver, working part time in town. However, because the mother went out of town to see her boyfriend on weekends when the child was with the father, the father's lawyer claimed the woman was not interested in the child.

Father's lawyer: The defendant says she spends all her time with the child. When? Fridays only. She's spent all her weekends in [another town]. [The father] is spending the bulk of his time with the child on the weekends. If the defendant was interested in her child's well-being, she wouldn't put her own interests in front of those of the child.

In concert with the idea of "maximum contact" and selflessness, women were routinely portrayed as facilitating the father's access to the child. For example, in Singh v. Singh, the mother's lawyer portrayed her as facilitating access even against the wishes of the child.

Mother's lawyer: Mr. Singh has had access every weekend. Mrs. Singh wants every second weekend. [The daughter] is uncomfortable spending overnights with her dad. Mrs. Singh has to encourage her to go. [The son] is fine with overnights and Mrs. Singh has allowed this.

The women's concerns appeared to be subsumed in concern for others in proceedings and court documents. For example, in Ms. Najinska's application to vary access, her real worry was that the children (two toddlers) got overtired, and were not fed properly during their weekend time with their father. However in her affidavit in support of the application, her concerns were framed as concern for both the children **and** their father, with no mention of

the difficulties she faced trying to cope with hungry over-stimulated children when they returned home.

[He] is good at taking the kids on excursions...[this plan] would permit him time to concentrate on spending his time with the children rather than worry about cooking or attending to meal preparation.

Women were not simply portrayed in a manipulative manner as facilitating access, however. Rather, this portrayal fit with many of the women's values. For example, Ms. Rodriguez said of her child's father, a self-described cocaine addict and "unsuitable father": "He is the father of my son. I'd like for them someday to have a relationship."

In summary, because prior conduct was selectively relevant, and violence against the woman largely irrelevant, abuse did not stand out as a significant feature in these cases. Not foregrounding the woman's experiences of violence fit with a portrayal of mothers as selfless in contrast to the portrayal of women as selfish.

Outcomes

In this small sample of cases, the outcomes for women and children were quite detrimental. First, children's interests were sidelined by the rules, father's rights and by the way best interests were interpreted. Second, women were coerced into compliance (with men's wishes), compromise and suppression of violence. Finally, the safety of the women and children was jeopardized. For example, in Sun v. Sun, the master awarded the father increased access, although the mother applied for a restraining order and the father did not request such an increase. In doing so, the access from Sunday morning to Sunday evening, was increased to Saturday evening to Monday morning. As the exchange point was outside a Chinese grocery on a busy city street corner, to accommodate her father's shift work and the restraining order, the three-year-old child would have to wait there at 8 p.m. to be picked up by "someone." For, as the master noted: "It doesn't have to be Mr. Sun who picks up the child. It can be someone in his family. It can be a friend. It just has to be a responsible person." It seemed that at least in this case the best interests of the father were preserved.

The policy discourses also operated in these cases to suppress women's experiences of violence, and to coerce women into compliance with men's wishes, compromising the safety and well-being of the children and themselves. For example, the mother in Soo v. Wong told us she avoided court costs and the risk of losing custody by agreeing to unsafe supervision, despite protection orders granted in criminal court and a no-contact order for her. In Ms. Najinska's case, court-ordered mediation was "terrible." She asserted that her ex-husband did not negotiate in good faith and was still trying to control her. She had to accept some of his conditions, because she was afraid that if she did not, she would appear to be the non-compliant or unwilling party. At this writing, he is making more and more demands. For example, he wants the restraining order removed, he wants her to drop off the children at his girlfriend's house for his access, he wants a communication log between them (which he has used in the past to get information about Ms. Najinska, not to relay information about the children). She feels she has "lost all her bargaining power" with him since beginning mediation.

One of the most insidious outcomes of these discourses was that women and children were put at further risk. For example, in Vartan v. Tchakaroy, the master denied the mother's request for an ex-parte order for custody despite threats by the father to kill the child, and despite existing restraining orders in another jurisdiction. In Wheeler v. Wheeler, the sexual assault of one child (apparently an eight-year-old) was not thought by the master to constitute sufficient reason to deny access to a younger child (although the master did not make any ruling). In one of the clearest examples of jeopardy, in Kung v. Kung, the master forced the woman to leave her abusive husband prematurely. Although she had a safety plan in place, the master's seemingly arbitrary decisions forced her to leave with her child days before she had arranged to leave. Not only was there no acknowledgment that women are known to be at increased risk when leaving abusive partners but, in addition, this master denied the mother's application to surrender the child's passport and her application for a restraining order.

Master: We have the order you've included, which I've torn out of your binder. Your order is good until this Friday unless extended. [Puts papers aside.]

Lawyer: Her plan is to move out Friday and serve him Friday so she could have the weekend with [her daughter].

Master: [interrupts] Service by 7:00 o'clock this evening.

Lawyer: [lost].

Master: Thursday or Friday. Thursday or Friday.

Lawyer: How about Friday?

Master: She'll have to serve him today.

Lawyer: What about the restraining order? The same provision on the restraining order? The restraining order is vis-à-vis her only. Should that provision go on the restraining order as well?

Master: I'm not granting a restraining order.

Conclusion

These cases illustrate that the court's intention to determine and ensure the best interests of the child are undermined in at least two ways. First, the court may not even know about the violence in the home and have no way to estimate the danger to children. Given the number of homicides involving whole families and children (Cooper 1994, 2001), and given the number of those cases that may have involved civil proceedings, this is an excellent opportunity for the courts to intervene in a preventive manner.

Second, the processes involved in these proceedings may exacerbate “child” poverty. The 40 percent rule provides an opportunity for custody on paper to limit financial support of children. While this might make sense if the child is actually being cared for in two homes, the court order regarding custody and access may not accurately reflect where child care is actually carried out. Further, child support seems, ironically, to be somewhat disconnected from the best interests of the child. Women are forced to compromise. Our data suggest that one of these compromises is to opt for safety rather than seek financial support from abusive ex-partners.

In the cases explored in this study, the discourse of best interests of the child was enacted in ways that separated children’s well-being from that of their mothers, who largely remain primary caregivers. The discourse obscures violence and constructs women in ways that foster outcomes that are detrimental for the women and their children.

Discussion

It is somewhat misleading to separate the examples of mothering under duress we investigated as if they did not have general features and as if some individual women were not contending with substance use, mental illness and woman abuse simultaneously. Separating the phenomenon of mothering under duress into separate “types” was a methodological device to enable us to explore nuances of different situations, but it does not necessarily reflect the reality of many women’s lives. Hence, this discussion reflects what we observed about mothering, and mothering under duress more generally, in the context of women’s everyday lives.

We drew on women’s self-reported accounts of their lives as well as direct observation of particular events in women’s lives. We understand the women’s accounts of their experiences as arising within the set of shared values and beliefs that form the available discourses of mothering, and mothering under duress as we have referred to it, in particular. Women’s experiences are part of the same social world that media and policy discourses both shape and reflect. Despite the fact that these examples are not strictly parallel and though we used different methods to investigate them, there is some degree of congruence between the views of the women we interviewed, those who work with them and the media portrayals. As noted, the dominant discourse is that policy and practice should be informed by, and directed toward, the best interests of the child. However, while there are dominant views that are often shared by the various people we investigated, there are, nevertheless, also discourses of resistance, challenge, critique and opposition. Resistance can take many forms, from questioning assumptions to open legal challenges. These discourses centred on recognizing women’s individuality, paying attention to the circumstances of a woman’s life, acknowledging women’s efforts to comply with official guidelines and rejecting the bureaucratizing effects of being a case.

The three cases of mothering under duress had features in common. Each issue involved women in one way or another becoming a “case” in a system that introduced a particular framework of decision making with varying levels of autonomy and control. In becoming a case, the mothers were subjected to a unifying, bureaucratic gaze that typified rather than

individualized, reducing and simplifying the women and their lives.¹³ This typically entailed decontextualizing the specific aspects of a woman's situation from consideration in decision making, particularly with respect to the application of standardized assessment tools and procedures and the processes of child apprehension. The women reported responding to this systematization in our focus groups and interviews, with calls for greater recognition of their individual circumstances and a recognition of the importance context plays in understanding the circumstances of any particular case.

In becoming a case, the women dealt with their personal problems of substance use, mental illness or abuse, and found themselves forced to learn how to manage and engage with a depersonalized system of support and surveillance. Often, the system itself exacerbates rather than relieves a woman's duress, becoming another problem with which she has to contend rather than a means of support for safe and effective mothering.

In social work, and medical and legal practice, certain assumptions about motherhood and women who suffer from mental illnesses, use illicit substances or are abused by their partners were more or less made explicit. These circumstances are often used to call into question women's ability to mother.

Common themes with distinct attributes emerged from this analysis of the accounts of women's experiences of policy enactment. Regardless of their circumstances, each woman entered a bureaucratic and administrative system as she came into contact with medical, legal and social service authorities. As she became a "case," she came under scrutiny and surveillance by various professionals including social workers, lawyers, psychologists, psychiatrists, and day-care and home support workers. A woman's interactions with these workers and how they employed the rules and regulations that framed their rights and obligations with respect to the issue at hand became the locus of her experience of policy in action. The problem with being a case is that it limits one's ability to be seen as a mother or an autonomous individual.

In our examples, women argued that their circumstances and the particularities of their lives were given inadequate attention in decision making by authorities. The women argued for consideration of a variety of factors or variables in addition to those currently employed or accepted as the basis for decisions. For example, some of the women with substance use problems argued that a woman's progress toward recovery was not taken into account when decisions were made about child apprehension. Similarly, mothers with a mental illness reported that few steps were taken to prepare them or their immediate social circle to be able to manage at times when their illness was acute, even if this was a predictable occurrence. In contrast, for women experiencing intimate partner abuse, the legal system itself, with its arcane processes, rules of evidence and procedures, was critical to women's experience of loss of control over their — and their children's — lives.

A common outcome of women's experiences of being a case in one or more of the medical, social services or legal systems was a loss of control as decisions were taken over by various state authorities. Moreover, these systems are typically reactive and crisis driven and, occasionally, punitive toward women as mothers. We recognize, however, that this arises

because of limited funding, fuelled, in part, by public opinion and media portraits of women that maintain gender-based assumptions. “Systems” are not monolithic and many individual case workers struggle to support and care for the clients they serve.

Nevertheless, the systems are not necessarily set up to take into account women’s needs or realities as mothers. The mental health system rarely considers women as parents. Rather, it regards them as individual medical cases with symptoms and treatment protocols. Ironically, the substance use system really only considers women when they are mothers. Yet, there are few facilities and limited research into women’s addictions and women’s needs for support as substance users, and there are few treatment units that house women and their children. Finally, the legal system buries women’s needs in gender-neutral language and concern with children’s interests and fathers’ rights.

As already suggested, women mothering under duress are not always able to fulfil ideals of adequate or appropriate mothering in which mothers are meant to be selfless. Indeed, women with mental health or substance use problems, or who are abused by their partners, are typically cast as unfit mothers, because they may not always put their child’s interests ahead of their own needs for support, safety or medical care. In the woman abuse case, for example, we saw that women seeking support were constructed as selfishly guarding their own interests rather than protecting and preserving the interests of their dependent children.

Men and fathers are notably absent from the daily lives of the mothers. The only one of our three situations in which men are present is in woman abuse. In this instance, the rights and obligations of being a wife contribute to a discourse in which, as our media analysis demonstrates, the woman is simultaneously blamed for the abuse she experiences and for not protecting the child from it. At the same time, she is required to be loyal and fulfil her marital role. Such circumstances pit the woman as wife against the woman as mother, with conflicting expectations and interpretations.

Whether based on the accounts of the women or observations by officials, it became clear that there are numerous instances in which the system fails women as mothers. By pitting the interests of the child against the interests of mothers rather than seeing them as interdependent, decisions are often made that limit women’s capacity to mother and children’s opportunity to be mothered.

As we saw in the media analysis and the discussion of policy instruments, mothers are constructed as a risk to their children in instances of mental illness and substance use and as not protecting their children from risk in instances of woman abuse. In all three instances, there is a stigma attached to the woman’s failure to conform to the standards of good mothering that requires her to sacrifice herself for her child while maintaining sufficient autonomy and self-reliance to provide for her child. The core issues that unite the women’s experiences of mothering under duress are child apprehension, and child custody and access. These issues arise directly out of the discourses of the best interests of the child and the social construction of these particular mothers as unfit mothers.

We heard reports of, and witnessed in court proceedings, policies and practices that purported to be in the best interests of the child, yet weakened opportunities to support the mother–child relationship or rendered the needs of women as mothers invisible or irrelevant. As has been found elsewhere (e.g., Neilson 1997; Rosnes 1997), in the civil justice system the safety of women who were abused was not of direct concern. Neilson (1997: 137-138) noted that “when mothers’ victimization was expressly considered, it was merely in terms of the effects on children.” Whereas the medical system seemed unable to acknowledge that women with serious mental illnesses might also have needs as mothers, that same system, and the child welfare system, were intensely interested in another class of patient — the woman with substance use problems. However, these systems were not interested in these women for themselves but, rather, in their role as the environment for the child. Similarly, in the cases we analysed, when decisions were rendered on child custody and access, these decisions were also driven by the perception of a woman’s suitability as an environment for child rearing rather than in terms of the relationship between a mother and her child, independent of her personal social and economic circumstances.

Though rarely talked about by the women themselves (but impossible to ignore in our interviews with people who work with mothers under duress and our observations of legal proceedings), poverty is a critical feature of the duress that many of these women suffer. Further, given the victim blaming and personal responsibility ascribed to people living in poverty (Ryan 1971), the gendered nature of poverty and its role in exacerbating mothering under duress are often invisible in public, media and policy statements concerned with the issue.

Our discussions with women and those who work with them impressed upon us that most of these women are deeply committed to motherhood and their children. They share the ideals of good mothering that are generally taken for granted in Canadian society of selflessness and sacrifice on behalf of one’s children. Wherever possible, these women want to do what is best for their children and, above all, to maintain a relationship with their child.

5. A NEW MATRIX: THE MOTHER–CHILD RELATIONSHIP

The Web of Discourses

This study of three different cases of mothering under duress has uncovered many issues regarding the nature and interrelationships of media, policy, legal and public discourses. Profound questions about how these discourses have developed and how they may change in the future remain unanswered, but we can comment on how these discourses may be interacting and influencing decision making in contemporary Canada.

The discourses we observed are clearly interrelated. Cases that receive a high profile in the media are likely to become critical points on which public discourse shifts. At the same time, this process affects the political responses to mothers under duress and their children, which then can effect change in legislation or policy. Subsequently, workers entrusted with the enactment of policy and protocol are affected by shifts in the political atmosphere that determine emphasis, interpretation and accountability.

At the same time, judges and other arbiters exist in this social world, exposed to media, politics and public opinion. Their decisions are added to the process of discourse development through case law, court judgments or inquiries. In our study, all these discourses form a web, tenuously connected but mutually reinforcing. At the same time, any change in one part of this system of discourses may shift and affect the other parts. And, as in any other social process of building knowledge and practice, there is an organic and spinning quality, where the entire discourse grows and evolves as a result of the complex interactions of all of these patterns. As a result, the decisions emerging from the system at any one point are a reflection of the mix of influences and critical incidents affecting the process.

But where are mothers and women in this web? The women we talked to support dominant values surrounding the protection and enhancement of children's welfare. In so doing, they often identified themselves as the key responsible parties for the health and welfare of their children. They endorsed the view that, on occasion, children are in need of outside intervention to ensure their health and welfare and that intervention is entirely legitimate.

However, women, particularly mothers under duress, felt ignored, excluded and overpowered by the discourses, and the decisions and practices that sometimes result from them. But, driven by a strong, persistent and equally overpowering desire to maintain and build the mother–child relationship, they often consciously chose to acquiesce to these more powerful players in the system. The mothers were clearly oppressed by the system. They were depersonalized, punished, sometimes coerced and rarely solicited for their input. Issues, such as the material conditions of the mother or her experiences, history and suffering, were seldom evident in the discourses we analysed, and the mothers felt this omission deeply.

While sometimes angry, the women responded in predictable ways, by conforming, behaving and assuming appropriate role behaviour — as patient, case, subject, plaintiff or defendant.

They did not feel they had agency in these discourses, or any way to affect the resultant decision making that concerned them or their children. This was particularly disconcerting as the women were unable to perceive themselves as separate from their child or children, whereas the system usually made this distinction. The only substantive exception to this was with respect to pregnant women under duress, where both the discourse and the systems insisted on treating the woman and the fetus as a unit.

Although the women did not mention their race, class and gender directly as key elements of their experience, there were examples of their experiences and those reflected in the media and legal discourses that clearly illustrate these factors are at play in determining policy and public opinion. In addition, many writers have documented these factors in developing and enacting policy on mothers under duress.

For example, Schroedel and Peretz (1994) documented examples of gender bias underpinning policy formation processes. Clark (1990) documented how mandatory testing and reporting of substance-using mothers is directed at poor and non-White women, and Armstrong (2001: 8) reflected on how the entire child welfare system in the United States is directed at “policing and punishing the poor and their children.” All these practices based on race, class and gender feed into the oppressive and exclusionary practices affecting mothers under duress and, by extension, their children.

Mothers, pregnant women in particular, have often been regarded by health promotion advocates as presenting a window of opportunity for behavioural change. This notion has been applied to issues such as encouraging tobacco cessation and alcohol reduction during pregnancy, or improving nutrition and sleep habits. This attitude has been critiqued as opportunistic, paternalistic and inherently sexist as it has often been an exclusive focus, thereby rendering women’s reproductive value superior to women’s health for its own sake.

For example, traditional tobacco control approaches have been critiqued for this by Jacobson (1986) and Greaves (1993, 1996), who both suggested this emphasis reveals society’s devaluing of women. This is consistent with a long “uterine tradition” of understanding women’s bodies and health (Matthews 1987: 17), where any compromising of the fetus as a result of women’s behaviour is taken seriously by society. Not only does this approach undermine women’s health, but it also produces guilt and self-blame in women who smoke. Women’s ability to reproduce becomes the key reason to take notice of women’s practices. At the same time, there is considerable resistance to applying a gender or inequality analysis to practices, such as substance use, which would draw attention to the material conditions and contexts affecting women’s health in general.

The role of scientific evidence in directing the behaviour of pregnant women or mothers is growing. Health promotion advice recommends that the woman be smoke free and alcohol free and adopt a healthy lifestyle before conception. Blanket advice is given to all women of child-bearing age to take folic acid as a broad-based prevention of neural tube defects (Genetics Committee 1993: 2). Michie and Cahn (1997) commented that this type of advice not only “privileges pregnancy over parenting and the fetus over the child” (p. 25), but it also clearly “positions the baby’s health against the mother’s ‘appetites’” (p. 26). More

recently, growing scientific knowledge surrounding pregnancy, birth, genetics and disease has resulted in the creation of the 12-month pregnancy, referring to the notion that a pre-pregnant woman is also responsible for the health of her fetus and resulting child (Oaks 2001: 20).

McNeil and Litt (1992: 118) argue that this trend is fuelled, in part, by genetic counselling and testing, and new reproductive technologies that involve a more invasive approach to women's health sustained by extensive monitoring and tracking. The result is both a "temporal extension and...intensification of maternal responsibilities."

As Oaks (2001: 21) maintained, these "new rules of pregnancy" have reduced women to passive trustees of the fetus, not active makers of children. This distinction is significant, in that trustees are merely vehicles or stewards, working on behalf of society. This growing interest, research and intervention in the conduct of pregnant women is a significant example of the blend of evidence, a notion of calculable risk and limitation, and denigration of women's rights. This forms a crucial backdrop to the overall discourse surrounding mothering under duress in contemporary Canada. It also could serve as an indication of women's growing loss of freedom.

Having said this, pregnant women themselves express a keen desire to do the right thing for their children, and want to create the healthiest conditions for their growth. They too see the advent of a pregnancy or the birth of a child as a significant life event where positive decisions can be made about someone else's welfare and an opportunity exists for redirecting their goals and will. Indeed, substance-using women in our study remarked that their children were the best motivation for change. For the women who were experiencing violence, often their key motivator was their child's safety. These feelings are positive and hopeful, and offer an important clue for transforming policy and protocol to take advantage of these motivations and strong desires to protect and nurture children.

The relationship of mothers to their children is a determinant of other behaviours, such as feeding and caring for children when they are ill. The economic and relational contributions to health that mothers make to their children have been compared to others' contributions (Case and Paxson 2000). In their analysis of the 1998 U.S. National Health Survey, children living with birth fathers and stepmothers are "significantly less likely to have routine doctors visits or places for usual health care or wear seat belts" (p. 4) and, in addition, "are significantly more likely to be living with a cigarette smoker" (p. 1).

In a related study, Case et al. (2000) found that step, foster and adoptive mothers all spent significantly less money on food for young children than biological mothers. The authors concluded that investments in a child's health are more likely to be made by birth mothers. Stepmothers are not substitutes for mothers in this domain. The authors felt that closer attention needs to be paid to the relationships between children and parent figures in their households in measuring investments in children's health. Important issues around biological links and relational quality are raised by this research, and how these aspects may translate into children's health, nurturing and protection.

In all three of our cases, there are legitimate concerns about the health of the fetus due to a mother's substance use, her mental illness or her exposure to violence. However, only in the first two cases does the state and society, in general, take an acute and often interventionist interest. In the third situation, when violence against women during pregnancy is happening, the fetus is also at serious risk of injury or death, but state or system intervention, or even social outrage, is difficult to find. This points to the gendered nature of the differential societal response, dependent on whether the agent of harm is a woman or a man.

This pattern holds true after the child is born in the cases of substance use and mental illness. With violence against women, however, the picture is more complicated. Even when evidence exists and the children's health may have been compromised as a result of the violence against their mother, or even if they have been victims of abuse themselves, access and custody rights are still offered or enforced. Again, the gendered nature of the state's response is evident, with the application of a different standard of behaviour, care or character when a male person is contesting or demanding a privilege.

Schroedel and Peretz (1994: 336) argued that the recent introduction of the concept of fetal abuse is "a natural consequence of a generalized system of beliefs about men's and women's natural roles within society." This manifests in a skewed approach, focussing disproportionately on the behaviour of mothers, not fathers or others who may directly or indirectly harm the fetus. In addition, this analysis reveals the absence of serious emphasis on men's preconception and prebirth health and behaviour, and how it may affect the fetus.

Thus it can be seen that gender bias, particularly sexism, plays a part in the delivery of social expectations and the legal ramifications for pregnant women. Our study indicates that this pattern continues once the child is born, as women's behaviour becomes the focus and men, when they are present, appear to be assessed and regarded separately from their behaviour and in their own right. For example, when men are present as perpetrators of violence against their female partners, this behaviour is often disregarded by judges when deciding on custody and access to children.

This pattern has implications for the regulation of maternal behaviour. Pregnancy raises specific issues about intervention, autonomy, and the nature of state and medical control and treatment practices. Both the medical and legal systems play a key part in determining the course of this aspect of the discourse. Evidence in the form of the growing amount of scientific knowledge regarding human development and transmission, and development of diseases and conditions is increasingly relevant to these questions.

For example, research on preventing mental retardation in the children of phenylketonuria (PKU) mothers has determined that following a particular diet during pregnancy can prevent this outcome (Robertson 1987: 23). Knowledge about transmission patterns of active herpes from mothers to newborns can determine that Caesareans are preferable and safer than vaginal deliveries (Canadian Paediatric Society 1992). If such behaviours or clinical choices become mandated as opposed to recommended, through a combination of legal and medical control over women, what are the consequences?

Other questions follow from these trends. What is the role of the state in determining the range of choices of women over mode and location of births, even if some options are less safe than others? What is the role of the state in assessing and monitoring pregnant mothers' recreational practices such as taking hot tubs or doing extreme physical activity? Should mothers be allowed to keep pets if they compromise the health of their children, or feed their children particular diets if the children are obese? While seemingly far fetched, the latter question was the subject of an intense custody battle where critical medical evidence was gathered in order to defeat the mother (Philp 2001). It is easy to see that a slippery slope of interventions and policies could result in significant rights restrictions for women and mothers, based on accumulating scientific evidence and calculating risk.

Conclusion

Our three cases illustrate extremes of the experience of mothers in our society, all marked by intense scrutiny, a high degree of attention and state intervention. While we cannot generalize our findings to mothering in general, there are some notable indicators of trends with respect to mothering that provide a context for our conclusions.

Attitudes toward mothering have changed. In Canada, mothers did not have the right to petition for sole custody or even visit their children in the custody of their fathers until 1858 (Crean 1988: 22). In 1917, British Columbia was the first province to legislate that mothers had an equal right to custody as fathers (Crean 1988: 22). By 1920, case law began to promote a different approach favouring mothers. This evolved into the "maternal presumption" that has been severely challenged in the last decade in Canada. But these legal trends merely reflect the prevailing social views of mothering throughout this period. Maternal presumption, for example, reflected the view that mothers were biologically suited to raising children, and that the ties between mothers and their children were sacred. While women's roles have become more diversified in the last few decades, so have the views surrounding the importance of mothering, especially in relation to fathering.

At the same time, our collective notions of rights, risk and evidence have undergone considerable transformation. Our benchmarks or standards in each of these domains have shifted, explaining some of the contemporary responses to mothering under duress. In addition, political views shift with respect to issues of women's rights and autonomy. In the context of growing legal equality for women, certain interests are threatened. We have invoked the importance of more and better scientific evidence, while not often critiquing the origins and the production of that evidence. We have embraced risk as advanced through epidemiology and actuarial science, but fail to explain the uncertainty of risk on an individual case basis, where there is not a one-to-one relationship between a behaviour and certain damaging results (Oaks 2001, Ch. 4).

Interventions in many diverse forms pepper a landscape where mothers are increasingly questioned, monitored, controlled or diminished. For example, mandatory treatment orders (for drug abusers), forced contraception (for child abusers), apprehensions of the fetus (for child protection), incarceration for the purposes of treatment (for child protection) and mandatory or standard medical treatments for fetal benefit (i.e., ultrasounds and Caesareans)

are medical–legal challenges to the autonomy of mothers and women. Custody disputes (challenging maternal presumption) and child apprehension practices (at birth and later) are examples of legal and quasi-legal interventions that also indicate increased interest in traditional women’s domains. Overriding all of this are cultural and social shifts and political trends.

“Both forced contraception and prosecutions of pregnant women are made possible by today’s political climate in which women’s reproductive freedom concerns are minimized and governmental intrusions are extended” (California Advocates 1991: 3).

On another level, in the context of a greater quantity and importance of evidence, there is also a closer inspection of risk. While the fetus is in utero, there is a growing focus on the liability and responsibility of the woman, and much less public acceptance of a negative outcome that could have been prevented. In general, there is a lower tolerance for risk in modern society, and poor outcomes often result in claims for damages and awards. For example, cases involving children with injuries from before birth, at birth or acquired afterward are now plaintiffs in legal suits against their mothers, in order to acquire damages from insurers (e.g., Tibbetts 1999). Cases such as this have had an impact on the status of the fetus in Canadian law.

If present trends continue, there may be more challenges to control over the fetus and child, and more social and political interest in mothering and the conduct of mothers. This gives rise to clear concerns about the degrees and security of women’s freedoms and worries about potentially increasing limitations on women’s autonomy. Women’s freedom could be curtailed through the acquisition of appropriate evidence. For example, recent research has concluded that pregnant women in the first trimester have more motor vehicle accidents possibly due to biological changes that affect their capacity to drive (Smyth 2001). Similarly, if enough evidence is gathered to suggest that women who work in the labour force and place their children in day care are harming them, what could be the ramifications for mothers?

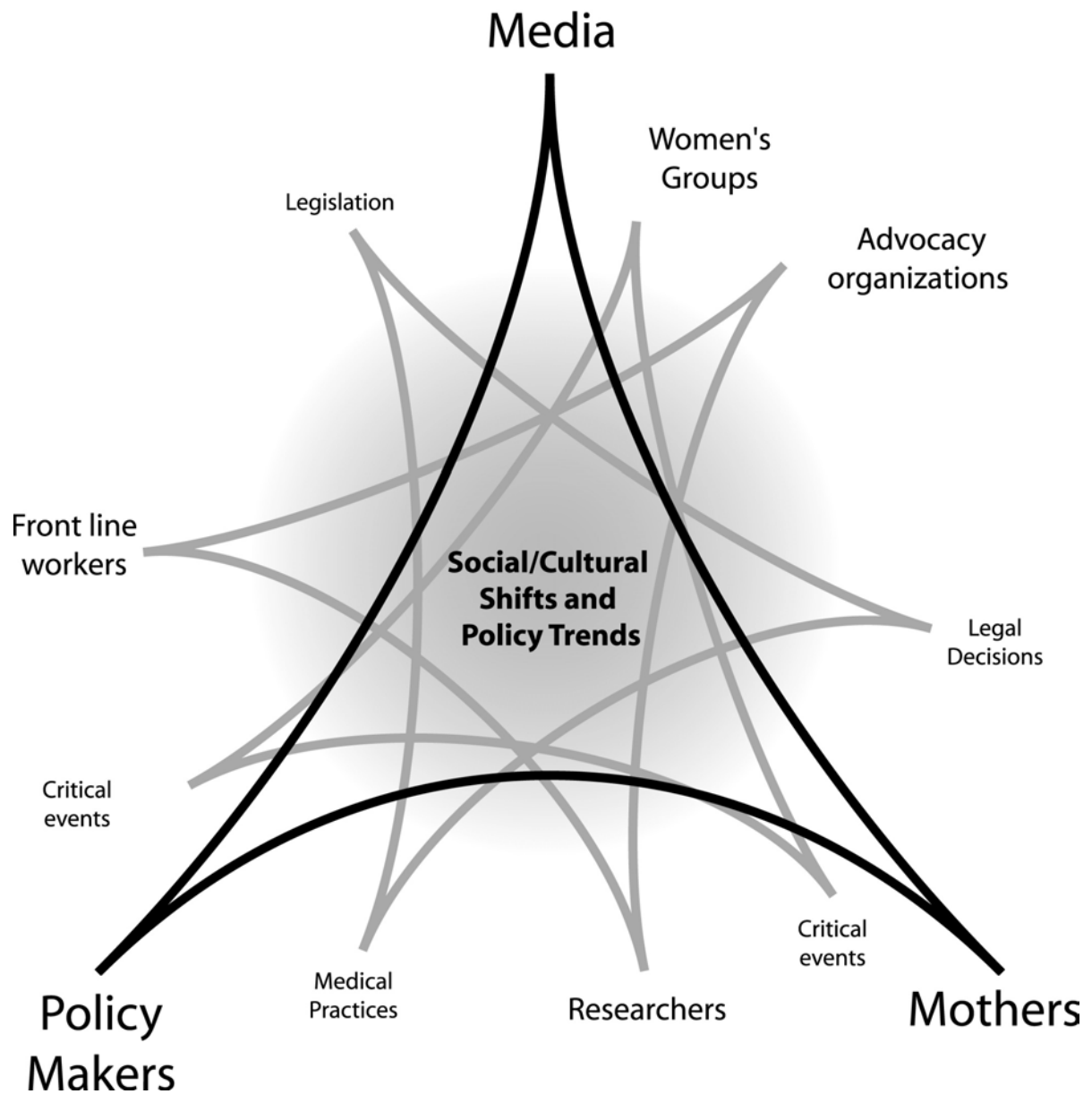
As Phylis Chesler (1991: 415) pointed out in the context of custody challenges, evidence is brought forward from experts that is clearly temporal and reflective of political shifts and changing moral and legal landscapes.

Clinicians who once tyrannized women with their advice about the importance of the mother–child bond, today, in the context of a custody battle, now often refer to it, if at all, as only of “temporary” importance. Clinicians view “good enough” mothers as virtually interchangeable with any other woman, especially if the other woman is also a paternal grandmother or second wife.

In short, evidence and the meaning of evidence changes, risk and our tolerance for risk changes and rights and the balancing of rights changes, from year to year, era to era. All these perpetually moving axes inform, and are affected by, the discourses manifest in policy, media and in women themselves. This is how the web of discourses on mothering under duress is continuously constructed and reconstructed.

Figure 4:

Web of Discourses



A Mothering Framework

We propose a mothering framework to assist in analysing and assessing mothering-related policy formation and enactment. This framework has three parts:

- mothering-centred policy values;

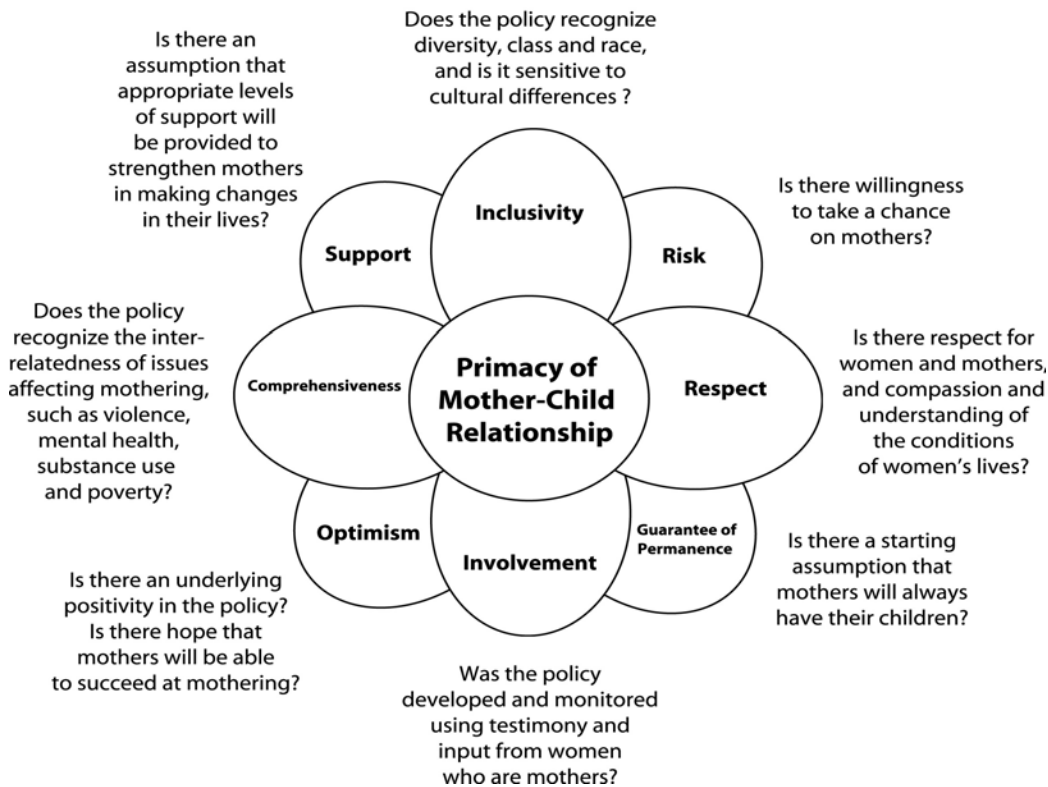
- a policy filter tool; and
- strategies for action and inclusion.

The framework is designed to increase sensitivity to the assumptions and limits in existing policies and to increase capacity to improve them. It is intended to assist in building skills in policy analysis in all players and in all sectors. It is called the Mothering Framework to draw attention to the act of mothering, and to focus policy development on supporting the practice of mothering in society.

The mothering-centred policy values statement highlights the key values we believe are important to uphold in designing and evaluating policies and turning them into mothering-centred policies. The policy filter for mothers is a checking and analytic tool for policy makers, politicians, service providers, media personnel, women and the general public to use to identify the approach, inherent biases, conceptualizations and consequences of a policy or piece of legislation. Finally, the strategies for action and inclusion initiatives are a partial menu of concrete steps to improve the capacity for policy analysis and assessment.

Figure 5:

Mothering-Centred Policy Values



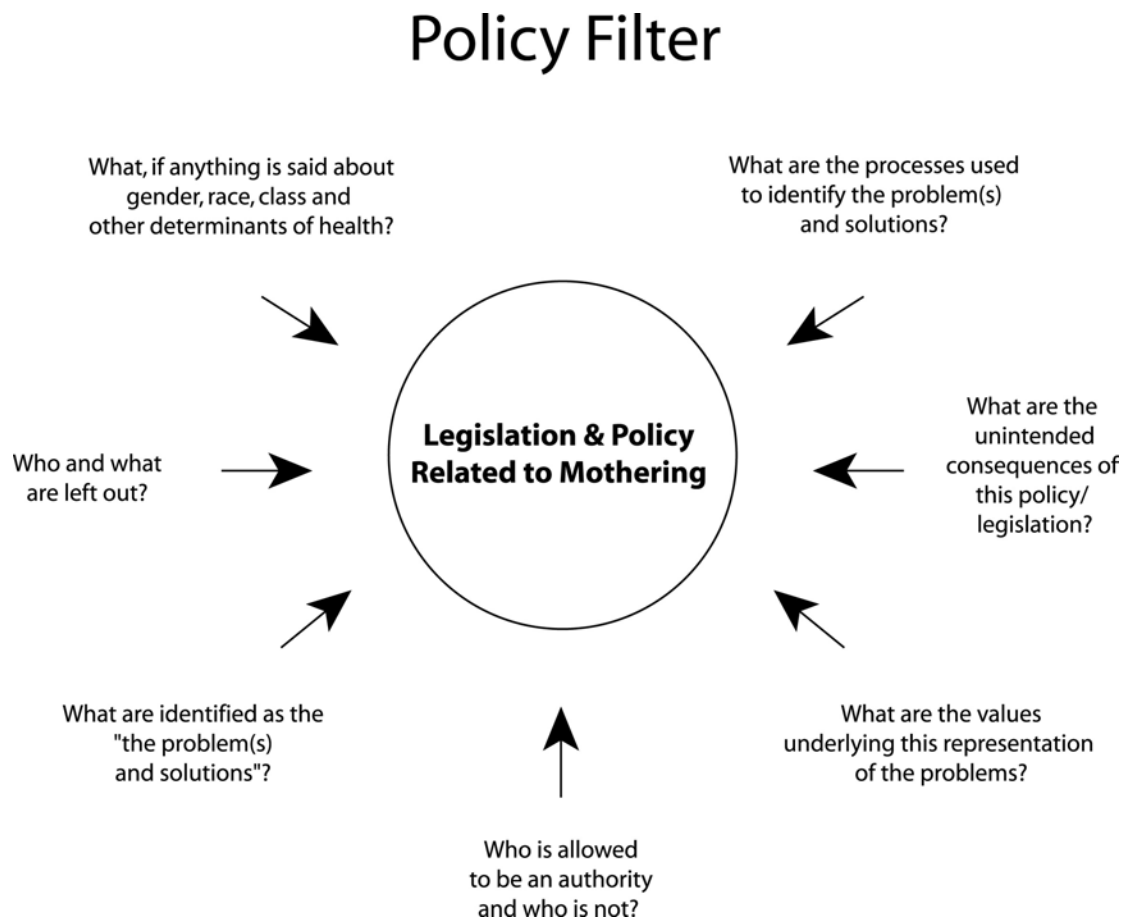
Mothering-Centred Policy Values

This component outlines the values that matter in developing and assessing policy regarding mothers. Figure 5 places the mother–child relationship as central and ensures its primacy in discourse. This specifically suggests a shift from assessing and affecting the interests of children separately from their mothers. This relationship is the unit of consideration against which we assess the values brought to developing and assessing policy, and the pivot around which we list all the other mother-centred values. Policies affecting mothers and mothering must be characterized by inclusivity, the acceptance of reasonable risk, respect, assumptions of permanence of the mother–child relationship, support, involvement of mothers, optimism about mothering and comprehensiveness.

Policy Filter

This component poses some essential questions for analysing policy and legislation regarding mothering. These questions are equally useful in assessing media representations of policy, legislation or individual cases of mothering. These questions embed various lenses (such as the gender lens, and race and diversity lenses) among other key questions about authority, process and consequences. We built on the work of Callahan (2000) in developing and applying these questions to include in the policy filter.

Figure 6:



Strategies for Action and Inclusion

There are various important strategies for developing a better understanding of mothering policy and its effects on mothers under duress. These strategies listed below relate directly to supporting and operationalizing the mothering-centred policy values described in Figure 5. It is an initial list of approaches that will improve both the data used and the conclusions drawn about mothering in policy development, legal decisions and media portrayals. Ultimately, these measures will also improve the public participation in, and understanding and perception of, mothering policies. This list is partial and intended to stimulate discussion and action. It is purposefully not prioritized, as several of the strategies need to be followed simultaneously, and by different sectors, to produce better mothering policies in Canada.

Key to improving mothering policy is the development of capacity in all Canadians for understanding and analysing mothering policy and its effects. Strategies that increase “policy literacy” so all interested parties are able to see beyond the policy on paper, to imagine its action, to take note of its impact and to assess its potential for short- and long-term unintended consequences are critical to change.

This list is preliminary and partial, in that new strategies can be developed continuously to meet emerging needs, different sectors and the demands emerging from new information. These strategies can be grouped in the following ways, but taken together, form a spiral of ongoing activity as depicted in Figure 7.

Who?

- Include mothers directly in policy making.
- Elicit the testimony of mothers in this process.
- Involve women, mothers, policy makers and policy enactors together in assessing and critiquing policy.

What?

- Gather longitudinal data on mothers and children affected by mothering policies.
- Initiate research on the impacts of policies on different types of mothers under duress.
- Initiate evaluations of policy, child welfare and custody decisions on mothers and children.

How?

- Hold joint consultations of policy makers, mothers, media and others with a stake in mothering.
- Track policy changes and ramifications through a mothering commission.
- Develop policy literacy through education and training supported by Web sites and listservs.

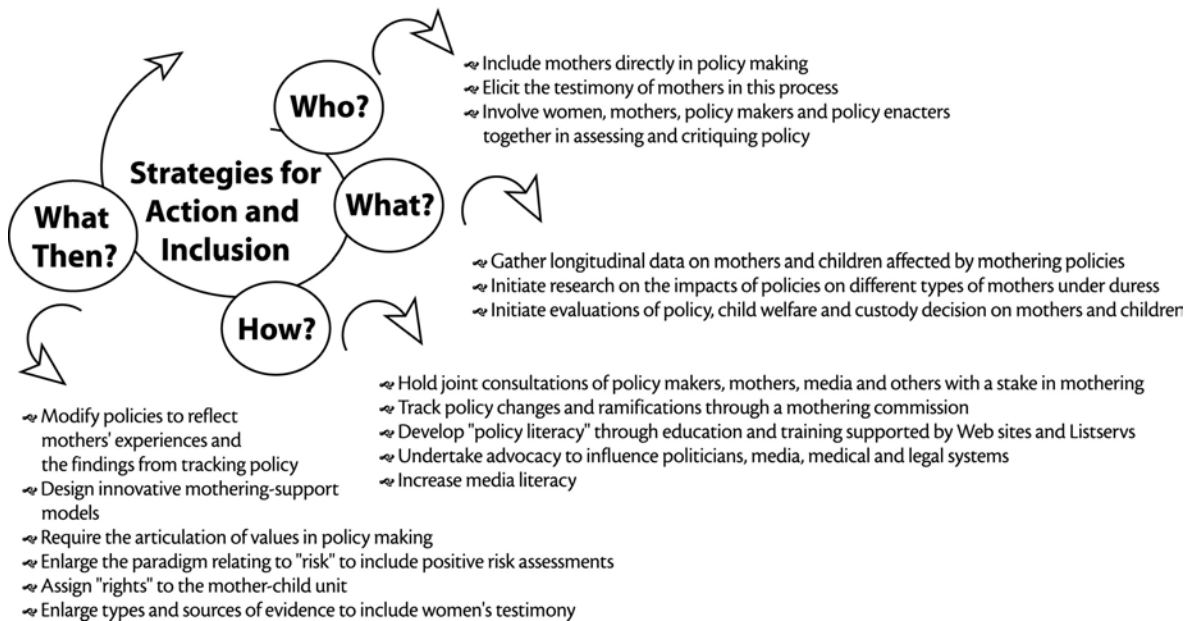
- Undertake advocacy to influence politicians, media, medical and legal systems.
- Increase media literacy.

What then?

- Modify policies to reflect mothers' experiences and the findings from tracking policy.
- Design innovative mothering-support models.
- Require the articulation of values in policy making.
- Enlarge the paradigm relating to risk to include positive risk assessments.
- Assign rights to the mother-child unit.
- Enlarge types and sources of evidence to include women's testimony.

Figure 7:

Strategies for Action and Inclusion



Taken together, these three components of the Mothering Framework address the need for overhauling mothering policy in Canada by enhancing the rights of the mother-child unit, enlarging the approach to risk assessment and eliciting a wider range of evidence. Most critically, it ensures the involvement of mothers and their children in the process.

Advancing the Mother–Child Relationship

The mother–child unit deserves a set of rights that is more than the sum of the rights of the fetus/child and the woman/mother. Advancing and protecting the rights of the unit could shift the policy framework and shatter the current legal approach to child apprehension and custody decisions.

An alternative approach to improving prenatal care is available that does not involve the many drawbacks of creating legal conflicts between the pregnant woman and her fetus. We can treat the woman and the fetus as a single entity, recognizing that a pregnant woman already has a great stake in promoting the well being of the fetus she carries. Our interest in helping the fetus, and thereby the future child, could thus be furthered by helping the pregnant woman (Johnsen 1987: 39).

The mother–child unit exists not just in a rights sense, but in a relational sense. There is evidence to suggest that the most positive circumstance for a child, if at all possible, is with its mother, even if she is under duress.

What if all mothers were guaranteed custody and access of their children, with variable and suitable levels of assistance and support for mothers under duress?

Risk assessment is not a science, but an art. Judgment and discretion enter into assessing risk, and a moving continuum of risk is likely realistic in many cases. Currently, most risk is calculated in a negative sense through identifying risk factors. An alternative approach is positive risk assessment, where the potential for success, not just failure, is calculated as a basis for decision making. With this paradigm shift, investments in practices such as mother–child support services could be made with an eye to increasing the likelihood that the mother and child will successfully grow together.

Long-term risks must be calculated and entered into decision making as well. Any curtailment or undermining of the mother–child relationship has long-lasting effects on both the child and the mother. Severing or weakening the bond produces a permanent dislocation. Children whose mothers are replaced by foster or adoptive parents for child welfare reasons may be safer in the short or medium term but may, in the long term, have other unresolved issues to pursue.

Mothers who lose their children also experience lingering grief and loss. These long-term costs are real for the woman and often require treatment provided by the state (Kovalesky and Flagler 1997). There was little evidence of these costs or any plans to ameliorate them being considered in decision making regarding child apprehension or custody.

Evidence from women and mothers who have experienced the effects of mothering under duress as well as from the children of such mothers is crucial to the development of a complete picture. This evidence is not normally collected, but is essential for developing future protocols and policies.

The evidence is often from a narrow range of experts usually omitting the parties most directly involved. Frequently, acceptable evidence is also derived using a narrow range of methods, often eliminating testimonials or stories of mothers and children. Media analyses reinforce the limits of evidence by focussing on extreme, unique or disastrous cases. They, inevitably, omit coverage of success stories. Public opinion reflects and reinforces this. All these approaches affect decision making or the design and assessment of policy.

Mothering has been subjected to several shifts in social attitudes and legal responses in Canada. “Women are differentially subject to the disciplinary mode of regulation” (Campbell 1999: 920), and pregnant women and mothers are subjected to even more scrutiny and control. The importance of this trend is not to be underestimated. The mothers under duress that we studied in this project sit on a key frontier in the debate about intrusive disciplinary practices and positive social intervention. “Pregnant women who use drugs have become strategic pawns in a high-stakes game involving all women’s self-governance” (Campbell 1999: 919).

From preconception onward, the state is taking increasingly intense interest in the behaviour of mothers. This interest manifests in bringing forward increased evidence, taking sharper considerations of risk and introducing competing sets of rights. This study has demonstrated that these elements are the links in an intricate web of discourses surrounding mothering under duress that is illustrated daily in policy enactment and media analysis. The voices of mothers and women in this web are much less influential, but nonetheless carry important messages for improving policy and practice.

It is essential to re-create and reinforce the mother–child unit in contemporary Canada. In circumstances where mothering is taking place under duress, it is necessary for all sectors of society to offer compassion and support, not punishment and defeat. Only through supporting this critical relationship will long-term costs and consequences be avoided and mothers and children be able to grow stronger together. By putting mothers into the policy process at every stage, the values underlying policies will be crystallized and challenged, and the effects of mothering policy tracked and demonstrated. In restoring the mother–child relationship, we are ensuring women’s equality in the mothering discourse and enhancing the quality of life for all Canadians.

EPILOGUE

The Cycle Continues

Almost 10 years after the death of Matthew Vaudreuil and the subsequent inquiry by Justice Thomas Gove into his death, the critical issues related to mothering under duress continue to reoccur, and the policy responses enter a different cycle. After the Gove Report, social workers and other front-line staff focussed on child safety and took risk-averse decisions with respect to protecting children in British Columbia. In 2001, with the advent of a new provincial government, this pattern is being acknowledged and questioned by politicians. A return to enhancing the family and supporting the mother is being recommended, and social workers are being encouraged to use their best judgment in assessing risk.

B.C. to Cut the Number of Children in Care

By Craig McInnes, October 3, 2001, *The Vancouver Sun*

VICTORIA-The Liberal Government wants to drastically reduce the number of children who are taken away from their parents, Gordon Hogg, the minister of children and family development, said in an interview Tuesday.

Like most ministers, Hogg is under orders from Premier Gordon Campbell to come up with plans to cut his budget by between 20 per cent and 50 per cent.

Hogg says the move to slash the number of children in care is not being driven primarily by cost. Money spent on children who are taken away from their parents could be better spent providing support to families and communities so children can stay with their parents or with extended family, he said.

“We’ve seen 4,000 more children come into care in the past four years,” Hogg said. “Each child in care costs in the neighborhood of \$40,000 a year, so there’s a \$260-million increase that has happened in that area.”

He gave the example of a single mother in Vancouver where his ministry recently apprehended her five children.

“The mother had not been abusive, she had been neglectful, so the action taken by the social workers was appropriate given the legislation and practice that’s in existence,” he said.

If the mother had been given some support, the children could have stayed with her, Hogg said.

“It would have cost us far less than the five times \$40,000, the \$200,000 that it cost to remove them for a year, to provide some support to the family to keep the family together.” The rapid increase in the number of children in care followed a scathing report by Judge Thomas Gove in 1995 on how the government failed to prevent the torture and murder of five-year-old Matthew Vaudreuil by his mother.

Since then, front-line workers facing the complex question of whether to remove children from their parents have been loathe to take a chance on the safety of a child even if they believe the problems could be resolved within the family.

“Social workers are not exercising their best judgment,” Hogg said. “They’re taking the safest route and they are taking that because of the culture that we have created, and a lot of that culture comes from the politicians and we have to turn that around.”

Child-protection workers have to be given the support of the government to exercise their professional judgment and the tools they need to support families without tearing them apart, he said.

“The first line of response in dealing with issues is the family, the second is the community and the third is — only when the community and the family break down — should the state break in to apprehend and do those things.”

Linda Korbin, executive director of the B.C. Association of Social Workers, welcomed the new direction Tuesday but warned that providing home-support services will be crucial. “If they’re going to keep children in their homes, that requires them to provide a level of support for families so they can continue to care for their children.”

Korbin says there are fewer services available to support families now than there were during the cost-cutting years of former Social Credit-premier Bill Bennett in the mid-1980s.

Hogg confirmed that the option of cutting his ministry by up to 50 per cent would have serious consequences.

But despite not being protected like health and education, Hogg said the Liberal’s election platform called for improvements to services for children and families.

Matthew's Story Needs No Sequels

Letter to the Editor, October 5, 2001, *The Vancouver Sun*

When I awoke this morning I was saddened to recall that the child whom I came to know when I conducted a commission of inquiry should be 15 years of age today (Oct. 3).

Matthew died when he was only five. From his birth to his death he was a client of B.C.'s child-protection services. On at least 60 occasions child protection received reports that Matthew was being neglected or abused. At least 25 child-protection social workers and supervisors made decisions affecting him. He had been taken to the doctor 75 times and seen by 24 physicians. He and his mother received a stunning array of child care, family support and medical services, but these were not enough to prevent him from being routinely neglected and abused, and dying a terrible death.

Policy of the day told social workers to keep children with their families.

As I said in my report: There are many ways to meet the needs of children. Often, this is best done by helping families to care safely for their children; a parental support model can be a valuable intervention strategy in protecting needy children and youth. However, if a family cannot take on the responsibility of caring safely for its children, then it is up to the child welfare system to take whatever steps necessary to protect them.

In Matthew's story, the worst fault did not lie in attempting to help Matthew's mother, but in ignoring Matthew. In a truly child-centred protection system, when asked for whom they worked, staff would answer: For the child.

I hope that in any review of how child protection workers do their work, this is kept in mind.

Tom Gove
Vancouver

**APPENDIX A: THE VANCOUVER SUN, THE NATIONAL POST AND THE GLOBE
AND MAIL SEARCH STRATEGIES**

The Vancouver Sun and National Post Search Strategy

All searches were run and newspaper articles retrieved from Canadian NewsDisc™.

1. A few simple searches were carried out to determine the scope of this media search portion of the project. These initial searches consisted of pairing the terms “mothering” (or rather, “parenting”) with “mental health,” “violence” and “substance abuse.” We examined the descriptors featured in relevant articles from these early searches and compiled a list of indexed descriptors, or subject headings, to add both conceptual depth and breadth to the media search.

2. Descriptors in the Canadian NewsDisc are assigned subject headings that locate and reveal the indexer’s perceptions of the “aboutness” of various articles. Descriptors therefore differ from free text terms, which reveal nothing, or very little, about the nature/subject of the article. After running a few searches in which we used various concepts as free text terms, and being dissatisfied with the precision of the articles that were retrieved, we decided to limit this media search almost exclusively to searches using descriptors.

3. The descriptors are as follows. Note that variations in spelling, though not included in this list, were taken into account in the actual searches.

Topic	Main Issues	Peripheral/Broader Issues
<ul style="list-style-type: none"> • Parents; Parenting • Women; Women’s Rights • Mothers • Child; Children 	<ul style="list-style-type: none"> • Mental Health; Mentally Disabled • Emotionally Disabled; Emotionally Disturbed • Physically Disabled • Handicapped • Assault(s) • Spousal Abuse • Child Abuse • Violence • Domestic Violence • Substance Abuse • Drug Abuse; Drug Addiction(s) • Alcohol Abuse; Alcohol Addiction 	<ul style="list-style-type: none"> • Laws and Regulations (Canada) • Government Planning • Government Policy • Families; Family Law • Child Custody • Social Services; Social Welfare; Social Conditions • Health Care • Abortion • Birth Control • Gender

4. Various combinations from this set of terms were used in running more complex and comprehensive searches. Histories of these specific searches are available for any researcher who wishes to examine them.

5. Free text terms were limited to one term, “fathers’ rights,” but yielded hardly any articles in the limited set.

6. A log of the accession numbers for every article in our media collection was prepared. Accession numbers are unique identifiers that allow quick and simple retrieval of specific articles.

The Globe and Mail Search Strategy

A similar search strategy was used in searching *The Globe and Mail* CD-ROM database. All searches were limited to the period between May 1, 1999 and April 30, 2000. A combination of controlled, indexed vocabulary (shown in upper case), keywords (shown in lower case) and proximity operators (e.g., ADJ2, i.e., adjacent within two words) was used to yield a final set of approximately 270 articles. The specific search strategy is shown below.

1. PARENT
2. PARENT and DRUG (DRUG ABUSE, DRUG ADDICTS, DRUG ADDICTION...)
3. Domestic *ANDS* violence [domestic and violence in same sentence]
4. DOMESTIC VIOLENCE
5. BATTERED WOMEN
6. CHILDREN and VIOLENCE
7. CHILD ABUSE and mom(s), dad(s), father(s), mother(s), parent(s), parenting, mothering, stepmother(s), stepfather(s)...
8. CHILD CUSTODY
9. MENTAL HEALTH and mother(s), father(s), stepmother(s), stepfather(s)...
10. SMOKING and CHILDREN
11. WOMEN and CHILDREN
12. WOMEN and MOTHERING
13. ALCOHOL and MOTHERING
14. motherhood and PREGNANCY
15. MEN and CHILDREN
16. CHILD SUPPORT
17. FAMILY LAW
18. FETAL ALCOHOL SYNDROME
19. CHILDREN and SOCIAL POLICY/SERVICES/STRUCTURE/WORKERS
20. best interests *ADJ2* [adjacent within two words] child

**APPENDIX B: NEWSPAPER ARTICLES USED IN FINAL MEDIA ANALYSIS BY
TOPIC AND SOURCE**

Accession Number Source/Yr/Mo/Dy/No.	Headline
Woman Abuse	
GM 990518 - 1581	Watching out for spousal abuse
GM 990708 - 1760	Abuser gets life term for killing wife
GM 991109 - 6570	Colts' Muhammed faces three misdemeanour battery charges
GM 991201 - 2402	Fund helps abused women re-establish their lives
GM 991202 - 2565	One day, she told herself: "I will leave"...36 hours later, Jordan was dead
GM 991207 - 1789	When love turns deadly
GM 991207 - 3796	Man jailed for setting ex-wife ablaze
GM 000420 - 4521	Tremblay violent, Daigle testifies
GM 000422 - 5029	Four killed when man forces car onto tracks
GM 000429 - 6713	Klein - Marcia guilty of mischief
VS 990612 - 0160	Canada's spousal assault rate drops
VS 991224 - 0133	There's help for kids who witness abuse
Mental Illness	
GM 990904 - 1090	Mom's blues affect child development
GM 990911 - 2347	After Zachary
GM 990916 - 3635	Woman terrified neighbours, inquest told
GM 000321 - 7345	When the mind won't say stop
NP 990512 - 0167	Elizabeth Ando's nightmare
NP 990909 - 0169	Dirty little secret: women who dread pregnancy
NP 990914 - 0215	Inquest begins into two year olds' stabbing death
NP 991110 - 0234	Mother who drowned children found not guilty due to mental disorder
NP 991110 - 0265	Woman who killed children found not guilty
NP 991111 - 0253	British Columbia: mother sent for treatment
NP 991201 - 0254	Mother avoids jail in attempted murder of disabled girl
NP 000105 - 0205	Conviction overturned in baby's death: postpartum appeal
NP 000208 - 0236	British Columbia: mother allowed out
NP 000426 - 0266	Alberta: girl expected to recover
VS 990518 - 0055	Mother gets jail term for killing baby girl
VS 991211 - 0151	Infanticide: madness or murder?
VS 000321 - 0109	Protest: mother seeks return of adopted daughter
VS 000401 - 0132	Woman ends Dosanjh office occupation: 12-day sit-in was a bid to get access to adopted daughter
Substance Use	
GM 990510 - 9647	Drug users can be good moms, book says
GM 990513 - 0378	Letter to the editor re drug addict moms: great

GM 990629 - 1931	Med watch: smoking and pregnancy
GM 990821 - 4623	The lost children of the streets
GM 991925 - 2508	Fetal alcohol syndrome
GM 991025 - 2509	Letter to the editor re busybodies
GM 991025 - 2510	Letter to the editor re breast feeding brigade
GM 991025 - 2511	Letter to the editor re FAS
GM 991026 - 2705	Letter to the editor re moral outrage and motherhood
GM 991026 - 2706	Letter from Rytell
GM 991129 - 1622	Why hasn't it sunk in?
GM 991230 - 8714	Drinking "ineffective" parents
GM 000101 - 0115	Letter to the editor re Statscan's uncommon sense
GM 000211 - 1530	One binge can harm unborn, study finds
GM 000304 - 3898	Pregnant addict under house arrest
NP 990508 - 0273	Save the children
NP 990831 - 0204	Study links teen drug, alcohol use to trouble with father
NP 990902 - 0216	Sterilization program for drug-addicted mothers offers cash incentive
NP 991110 - 0209	Lawyer convicted of murdering her two sons
NP 000129 - 0288	British Columbia: Ottawa to spend \$11M to fight fetal alcohol syndrome
NP 000218 - 0211	Judge orders woman not to get pregnant for 10 years: drugs affected child
NP 000304 - 0300	Ontario: pregnant woman faces jail
VS 990510 - 0086	Drug-addicted women still good parents, study finds
VS 990622 - 0069	Ottawa boosts B.C. abuse spending: \$3.2 million will be added to spending on programs to combat fetal alcohol syndrome and drug abuse
VS 990909 - 0152	Peers, parents spur young smokers, study says: an Ontario researcher also says that smoking and low grades tend to go together, but there is little the authorities can do about it
VS 991202 - 0217	Tot's ride of terror
VS 000122 - 0132	Fetal alcohol syndrome turned teen into a killer: Serna Nicotine was diagnosed with FAS at her first trial, for the drowning of a toddler. As soon as she was freed, she killed again.
VS 000129 - 0118	Ottawa to help fight fetal alcohol syndrome: Health Minister Allan Rock vows to spend \$11M over three years to help prevent the birth defect
VS 000401 - 0121	"Cool" dad gave drugs to teens: the father injected his daughter and her friends with methamphetamine
VS 000427 - 0171	Women walk hard road back from alcoholism: Men can drink to excess and be seen as tormented, solitary and even heroic. But when women take to alcohol, they are simply fallen

APPENDIX C: INTERVIEWS AND FOCUS GROUPS

Informed Consent for Participants

Principal Investigator: Lorraine Greaves, PhD

Co-Investigators: Joy Johnson, PhD
Colleen Varcoe, PhD
Marina Morrow, PhD
Lori Irwin, MSc
Ann Pederson, MSc
Nancy Poole, BA
Jill Cory, BA

Investigators from the University of British Columbia, University of Victoria and BC Women's Hospital are interested in speaking with mothers who are coping with an abusive intimate relationship, or alcohol and/or other substance use, or mental illness. In our research we are trying to better understand the experiences of mothers like you who are struggling to care for themselves and their children. We are interested in learning about how policies and regulations have worked for or against you. Participation in this study is entirely voluntary. You may decide not to participate, or to withdraw from the study at any time without affecting any support or treatment you are currently receiving. You may refuse to answer any questions.

Purpose of the Study

This research is directed toward understanding how the rights of mothers and children are often in conflict. We are interested in hearing about your experiences with the various agencies you have had contact with (e.g., hospitals, treatment services, social services, courts, child protection) and about the kinds of support services to which you have had access. Our research will be used to guide policy and planning in the area of women's health.

Procedures

As part of this study, you will be asked to participate in either a focus group interview or an individual interview.

Individual Interviews

This interview will last one to one and a half hours. You will be asked questions about your experiences as a mother with an abusive intimate relationship, or alcohol and/or other substance use, or mental illness. You will be asked to talk about the kinds of services and supports you have received. You will also be asked about how regulations and policies have affected you and your children. The interview will be tape recorded and the interviewer will take notes about what you say.

Focus Group Interviews

This interview will involve six to eight other mothers like you and will last approximately one and a half hours to two hours. In this interview, you will be asked to respond to several case reports that describe mothers coping with either an abusive intimate relationship, or alcohol and/or other substance use, or mental illness. You will be asked to respond to how policies and regulations affected the woman in the case and to suggest ways to ensure that policies and regulations are more helpful for mothers. The interview will be tape recorded and the interviewer will take notes about what is said.

Risks and Benefits

There is the potential risk that, by participating in this research and recounting your experiences, you may experience some mild emotional distress. Should you experience any distress, the researchers will immediately refer you for counselling or further information, depending on your preference.

You will be offered reimbursement for parking and an honorarium of \$25 for your participation in this project. The University of Victoria states that it is unethical to provide undue compensation or inducements to research participants and, if you agree to be a participant in this study, this form of compensation to you must not be coercive. If you would not otherwise choose to participate if the compensation were not offered, then you should decline to participate in this study.

Confidentiality

All data gathered will be kept in a secure cabinet.

All information in the individual interviews will be kept confidential; all identifying information will be removed. Only the research assistants and investigators will have access to the data.

If you participate in the focus group interview, what you say will be shared with other women and, therefore, your confidentiality cannot be assured. Focus group participants will be asked, however, to not repeat what they hear in the focus group.

If you have any concerns about the interview or the interview process you may contact:

Dr. Lorraine Greaves, Principal Investigator (604) 875-2633

Dr. Richard Spratley
Director of Research Services
University of British Columbia
(604) 822-8598
rds@exchange.ubc.ca

or Dr. Martin Taylor
Vice-President, Research
University of Victoria
(250) 721-7973
vpr@uvic.ca

I have read the above information and have had an opportunity to ask questions about my participation. I freely consent to participate in the study, and acknowledge receipt of a copy of the consent form.

I agree to the use of the individual or focus group interview data for the current project and understand that the tapes and notes will be destroyed within five years of its completion.

I understand that further research may result in the tapes being re-examined in the future and I agree to my information being retained in a secure cabinet and possibly used in future studies to be carried out by Dr. Lorraine Greaves.

I agree to the use of the individual or focus group interview data for the current project. I also understand that my data will be kept in a secure cabinet, but that it will not be used until I have had an opportunity to consent to its use in a new project.

Signature of Participant

Date

Informed Consent for Professionals/Policy Makers

Principal Investigator: Lorraine Greaves, PhD

Co-Investigators: Joy Johnson, PhD
Colleen Varcoe, PhD
Marina Morrow, PhD
Lori Irwin, MSc
Ann Pederson, MSc
Nancy Poole, BA
Jill Cory, BA

Investigators from the University of British Columbia, University of Victoria, and BC Women's Hospital are interested in speaking with people like you who are familiar with the situations of mothers coping with an abusive intimate relationship, or alcohol and/or other substance use, or mental illness. In our research, we are trying to better understand the experiences of mothers who are struggling to care for themselves and their children. We are interested in learning about how policies and regulations have worked for or against these women. Participation in this study is entirely voluntary. You may decide not to participate, or to withdraw from the study at any time. You may refuse to answer any questions.

Purpose of the Study

This research is directed toward understanding how the rights of mothers and children are often in conflict. We are interested in hearing about your experiences working with mothers under duress. Our research will be used to guide policy and planning in the area of women's health.

Procedures

As part of this study you will be asked to participate in an individual interview lasting one to one and a half hours. In the interview, you will be asked questions about your experiences with mothers coping with an abusive intimate relationship, or alcohol and/or other substance use, or mental illness. You will be asked to talk about the kinds of services and supports these women receive. You will also be asked how regulations and policies affect women's ability to care for themselves and their children. The interview will be tape recorded, and the interviewer will take notes about what you say.

Risks and Benefits

There are no known risks associated with participating in this research. Although you may not benefit directly from this study, the information obtained will help us gain a better understanding of the impact of policy on mothers who are under duress.

Confidentiality

All data gathered will be kept in a secure cabinet. All information in the individual interviews will be kept confidential; all identifying information will be removed. Only the research assistants and investigators will have access to the data.

If you have any concerns about the interview or the interview process you may contact:

Dr. Lorraine Greaves, Principal Investigator (604) 875-2633

Dr. Richard Spratley
Director of Research Services
University of British Columbia
(604) 822-8598
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Signature of Participant

Date

All Participants

Thank-you for committing to attend our focus group concerning our project, *Mothering Under Duress: Policy Discourses in the Context of Woman Abuse, Illicit Substance Use and Mental Illness*.

The focus group will be held from **2-3:30 on December 8, 2000** at:
The BC Centre for Excellence on Women's Health
BC Women's Hospital and Health Centre
E311-4500 Oak Street
Vancouver, BC

The following questions will guide our discussion.

Based on your experience:

- How are women with mental health problems assessed as posing a risk to their child(ren)?
- What kinds of actions are generally taken if a woman is deemed a risk?
- What kind of attempts are made to support women with mental health problems in their roles as mothers?

Policies and procedures:

- What are the kinds of policies, protocols and codes of ethics that govern your responses to women with mental health problems who are mothers (e.g., risk assessment, decisions about when to apprehend a child, decisions about child custody and access)?
- What are your experiences with other systems which help make determinations about a woman's ability to care for her child(ren) (e.g., assessments by private psychologists, the use of mental health assessments in civil legal proceedings, etc.)?

Who should we speak to?

- Do you have suggestions about other practitioners and women who are mothers we should speak to during the course of our research?

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Mothering Under Duress: Policy Discourses in the Context of Woman Abuse, Illicit Substance Use and Mental Illness is a project being conducted by a team of researchers supported by a grant from Status of Women Canada. In our research, we are trying to better

understand the experiences of women who are mothers and who have been diagnosed with a mental illness.

Specifically, we are interested in hearing about your experiences with the various agencies you have had contact with (e.g., hospitals, social services, child protection) and about the kinds of support services you have accessed. Our research will be used to guide policy and planning in the area of mental health.

1. Can you begin by telling me about your experiences as a mother with a diagnosis of mental illness? I'd like you to start at the very beginning and tell me as much as you can.

Probes:

- Can you tell me about your experience with the mental health system? How did you first become involved in the mental health system? What agencies/organizations have been involved in your life and the life of your child(ren)?
 - What were your circumstances and with what agencies/individuals (mental health system, private psychologist, child protection, social services) did you come into contact?
 - How did the system respond?
 - What kinds of supports (if any) did you receive to assist you in your role as a mother? That is, was your role as a mother considered in treatment or follow-up planning?
 - What barriers did you experience?
2. Did you ever undergo an assessment with respect to your ability to look after your child(ren)?

Probes:

- Can you describe this assessment and the outcome (e.g., apprehension, restricted access, loss of custody, use of a mental health act)?
 - What kinds of procedures were followed as a result of the assessment?
3. In your opinion how could the system respond better to mothers with a diagnosis of mental illness?

Probes:

- What works in the system and what doesn't?
- What kinds of support need to be in place for women to maximize their relationships with their children?
- What would have been helpful to you?

Mothering and Substance Use

Ms. G

In July 1996, when Ms. G was 22 years old, four months pregnant and using solvents, Winnipeg Child and Family Services brought a motion before the Court to have her placed in their custody, to confine her to treatment, pledging that she “owes as duty of care to herself and her unborn fetus and her actions violate that duty of care.”

She had borne three children, two of whom had birth defects, all of whom had been apprehended. In the five years that she had been involved with child protection services, Ms. G had been struggling with her addiction to solvents and had shown interest in going to treatment several times. In one case, she could not go to a treatment centre because she was too old (it was a specialized centre for youth with solvent problems up to age 18 only). In another case, there were no spaces when she was ready, and a third time she relapsed and refused to go on the day she was due to start treatment.

The Manitoba judge committed Ms. G to the custody of Child and Family Services, as they had requested, on the basis of finding Ms. G mentally incompetent to make her own decisions. She was confined to the Health Sciences Centre without her consent. When a higher court overturned this decision, Ms. G stayed in treatment even though she was no longer forced to do so. The case eventually went to the Supreme Court of Canada where it was determined that the current law does not support forcing mothers who use substances into treatment on the basis of owing a duty to their fetus. At the time of the final court decision, Ms. G had given birth to an apparently healthy baby, was drug free and was receiving 24-hour home support.

What do you think of the legal action taken by the child protection workers toward Ms. G?

What do you think of the final court decision?

What other actions/policies might have been supportive of Ms. G in this case?

Do you remember the media coverage of this case and, if so, how did they portray Ms. G?

Do you agree with this portrayal?

Mavis Flanders

Mavis Flanders was a single mother of an infant son. In January 1996, the police came to her residence in response to an anonymous call to the Ministry for Children and Families. She was arrested and incarcerated due to behaviour related to alcohol use. Drug paraphernalia and a can of beer were found in the baby’s stroller. Her son was taken into the care of the Ministry. He was returned two days later after an assessment by the Ministry concluded that the incident was isolated and that Mavis was not at risk for ongoing alcohol abuse.

In April that same year, her son was again apprehended as Mavis had been arrested for using substances in a public place. He remained in care from April to September, during which

time Mavis was expected to seek counselling, and supervised visits were conditional on her apartment being tidy. As her son was technically the client during the time he was in care, little support was offered to Mavis by the Ministry. A list of resources from a directory of local community services was provided, and Mavis did manage to attend individual counselling and group education through a drug and alcohol program at the Native Courtworkers and Counselling Association of British Columbia. She also saw a solvent abuse counsellor at the Vancouver Aboriginal Friendship Centre, and stayed in contact with the Kiwassa Neighbourhood Services Association where she met with other mothers.

Mavis was reunited with her son in September. A three-month supervision order was placed which stipulated that Mavis' apartment must be safe and sanitary at all times, and that she must abstain from using and possessing alcohol and other non-medically prescribed drugs. The services of a homemaker were provided to assist with housekeeping and child care, and to report back to the Ministry on Mavis' behaviour. The supervision order expired without a proper assessment being done. After the order expired, the relationship between Mavis and the Ministry was completely voluntary. There was minimal contact between Mavis and the Ministry over the next few months, and the services of the homemaker were reduced.

In the end, Mavis was found dead in her apartment due to a relapse/drug overdose. The investigation into Mavis's death by the Children's Commission found:

- The Ministry did not adequately support and follow up with Mavis and the alcohol and drug counsellors about what treatment Mavis was getting.
- It should have been a condition of her supervision order that Mavis go to residential treatment for mothers of young children versus outpatient counselling.
- Her service providers (the community centre workers, her doctor, the alcohol and drug counsellors and the social worker) were not sharing information well enough with each other nor doing case management.

What do you think of the actions taken by child protection in Mavis' case?

What do you think of the findings of the Children's Commissioner?

Linda

Linda is a 20-year-old woman of First Nations ancestry. Four months after arriving in Vancouver from northern British Columbia, Linda discovered she was pregnant. At the time, she was living in a hotel in the Downtown Eastside of the city, working the streets and in need of housing and food support. She did not qualify for social assistance because she was living with her partner. Linda regularly used heroin, and started drinking heavily after finding out she was pregnant. One of the other women on the street told Linda about Sheway, a supportive service for pregnant substance-using women and mothers of young children. Although initially suspicious, she did make a visit and liked the non-judgmental attitude of the people there. She received prenatal care and was provided with food as well

as bus tickets. With the support of Sheway, Linda quit drinking, decreased her heroin use and learned about needle exchanges and other safe injection practices. Sheway also encouraged Linda to initiate contact with the Ministry for Children and Families, anticipating that they would want to apprehend her child. They helped her to negotiate terms for keeping the child but he was apprehended at birth due to Linda testing positive for substance use and the baby showing signs of withdrawal. The apprehension of the baby brought back memories of her first pregnancy at age 14 (her stepfather was the father of this child), which also resulted in an apprehension at birth and eventually in adoption by a White middle-class couple in Vancouver.

Linda now has supervised visits with her new son at Sheway. She has started talking with the counsellors about her experience with her first baby and her life in the north.

What (welfare, child protection and service) polices have come to bear on Linda and have they been supportive or unsupportive of her?

Do you think the Ministry for Children and Families will allow her to keep this child? What would your decision be if you were the child protection worker?

Elizabeth Howse

Elizabeth Howse is a 27-year-old sheet-metal worker. She and her former husband Jason have joint guardianship of their seven-year-old son, Dustin. The boy spends weekdays with his mother and weekends with his father. Part of the guardianship agreement states that both parents must give permission if the child is to leave the country.

Elizabeth and her current partner had planned a vacation with Dustin to Arizona and California. Her former husband Jason, however, would not consent unless both Elizabeth and her partner agreed not to smoke cigarettes during the trip. The issue was brought before the family courts in Victoria where a judge allowed Elizabeth to take Dustin on the trip, but only if she promised not to smoke in the car during the trip. Jason is seeking a permanent court ban to prevent Elizabeth from smoking in front of their son at all times.

What do you think of the judge's decision about Elizabeth's smoking on the trip?

What do you think of the court action being taken by the child's father?

Do you have any comments about this case?

Full Interview Guide for Women

Demographic Information

Code name: _____ Date of interview: _____

Date of birth: _____

Approximate income/year: _____

Ethnicity: _____

Children:

AGE	M/F	WHO HAS CUSTODY?	ACCESS
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Duration of relationship: _____

Dates of co-habitation: _____

What's going on now re: custody and access or apprehension?

What led up to the current situation?

What kinds of services and supports did you receive during your legal process (names of agencies, etc.)?

Which services/supports did you find most helpful and why?

Which services/supports did you find unhelpful and why?

Do you have any suggestions about how women leaving abusive relationships can be better supported in their role as a mother?

Details of Court Event

Nature of court event (i.e., trial, preliminary hearing, etc.): _____

Date: _____ Time: _____

Court location and room: _____

Other information:

Post-Legal Event Interview for Women

Code name: _____ Date of interview: _____

How was the court event for you in general (i.e., feelings during event, feelings about outcome, etc.)?

How do you feel you were portrayed during the legal event?

What kind of support or advocacy would be/has been most useful to you during the legal process?

What kind of support or advocacy would be/has been most useful to your child(ren) during the legal process?

Has your relationship with your child(ren) been affected by the legal events? How?

Is there any other information you would like to share or like us to know about?

Preliminary Questions for Women

Code name: _____ Date of interview: _____

Have you been in an abusive relationship?

Do you have children?

What's going on now re: custody and access or apprehension?

Do you have a court date coming up? If yes, when?

What is the nature of the court event (i.e., trial, Ministry for Children and Families hearing, etc.)?

Schedule interview? Yes No

Interview date: _____

Time: _____

Location: _____

Special needs: _____

Other information:

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ENDNOTES

¹ Accession numbers identify each article. They are unique identifiers that allow quick and simple retrieval of specific articles. They are assigned by the indexers. We modified the assigned numbers to create a common type of accession number that was meaningful across the three newspapers. Each code followed the same format of newspaper (e.g., NP, GM, VS), date (yr/mo/dy) and unique identifier.

² The Aurora Centre is a multi-faceted women's addiction treatment program based at BC Women's Hospital. It serves women with substance use problems from throughout British Columbia.

³ Sheway is a supportive service in downtown Vancouver for substance-using women and mothers of young children.

⁴ For example, PAR-L facilitated by representatives of the University of New Brunswick and WSUP (Women's Substance Use Prevention and Treatment) facilitated by the Canadian Centre on Substance Abuse.

⁵ One of our reviewers noted that heterosexuality is more than an assumption. Since same-sex couples are totally precluded from marrying, the *Divorce Act* does not apply. The *Modernization of Benefits and Obligations Act* states that marriage is between a man and a woman only. This is stronger than assumed heterosexism; it is explicit discrimination that emanates elsewhere and is reflected in the *Divorce Act*.

⁶ See Appendix C for samples of interview questions, focus group guides and interview consent forms. See also the British Columbia Superior Courts, Reasons for Judgment Database <<http://www.courts.gov.bc.ca/>> for other examples of reasons for judgment used in the woman abuse section of this chapter.

⁷ This point is illustrated in the story, appearing in our media review, of the woman who went off her psychiatric medications during pregnancy (fulfilling the role of "good" mother by sacrificing her own health to that of her unborn child) who then lost custody of her infant when her own mental health deteriorated after the birth.

⁸ These video interviews were conducted by the Mental Patients' Association in Vancouver, British Columbia as part of ongoing work with mothers who have a mental illness.

⁹ All names used in this chapter, except in the case of legal matters on public record, are pseudonyms.

¹⁰ All court cases observed and reported on have been given pseudonyms to protect identities.

¹¹ Although the sample is too small to infer gender bias, such camaraderie was only observed between male judges and lawyers, although female judges and lawyers were observed.

¹² This was not the man's home, but rather, the woman's brother-in-law's home, where the woman and her child lived.

¹³ A bureaucracy is an organization in which activities are typically ascribed to roles independent of the particular occupant of the role; hence, it is an organizational form that tends to reduce and simplify individuals into their roles.

Projects Funded Through Status of Women Canada's Policy Research Fund
Call for Proposals
**Where Have All the Women Gone? Changing Shifts in Policy
Discourses ***

*Analysis of Discourses on Gender-Based Academic Success and Failure: What are the
Socio-Political Issues for Women?*

Pierrette Bouchard

A Motherhood Issue: Discourses on Mothering Under Duress

Lorraine Greaves

*Gender Equality Promotion Strategies for Regional Planning, in the Context of Health
Reform*

Bilkis Vissandjée

The Framing of Poverty as "Child Poverty" and Its Implications for Women

Wanda Wiegers

* Some of these papers are still in progress and not all titles are finalized.